



Office for Democratic Institutions and Human Rights

SWISS CONFEDERATION

FEDERAL ELECTIONS

21 October 2007

OSCE/ODIHR Election Assessment Mission Report



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**THE SWISS CONFEDERATION
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I. EXECUTIVE SUMMARY

In response to an invitation from the President of the Swiss Confederation, the Organization for Security and Cooperation in Europe's Office for Democratic Institutions and Human Rights (OSCE/ODIHR) deployed an Election Assessment Mission (EAM) for the 21 October 2007 elections to the *Nationalrat/Conseil National* (National Council) and the *Ständerat/Conseil des Etats* (Council of States), comprising the Swiss Federal Assembly.

Switzerland is a parliamentary democracy with a long-standing democratic tradition, as was evidenced by these parliamentary elections, which were conducted accordingly with a high degree of public confidence. The Swiss electoral system of proportional representation generally encourages political diversity and pluralism, offering voters a wide and genuine choice. Interest in these elections was higher than recent past federal elections, resulting in a turnout of 48.9 per cent, the highest since 1987.

The Swiss Federal Assembly is elected for a four-year fixed term. Federal legislation provides rules for elections to the National Council, but many aspects are left in the competence of the 26 cantons, resulting in a great variety of regulations. Competence for legislation for the Council of States rests with the cantons.

The 26 cantons retain significant powers, and each canton decides the division of governmental responsibilities between it and the communes, which varies considerably across Switzerland. A distinct feature of Swiss political life is also the prevalence of various forms of direct democracy at all levels of government, which gives voters choices on a range of issues throughout the year.

The 2007 campaign took place in a competitive manner with reported record levels of campaign expenditure by candidates and political parties. At present, expenditures are not required to be disclosed or reported to the public, and this issue is becoming increasingly controversial in the election process. Many national and local issues were debated and raised during the campaign period. The final few weeks of the election campaign were dominated by the controversy over a political poster, issued by one of the dominant political parties, which many perceived as conveying a racist message.

Switzerland's linguistic and cultural diversity, as well as a long-term tradition of freedom of expression, have enabled the creation of a diversified and pluralistic media market. This is principally structured along linguistic lines, and a number of local media are present in each of the four Swiss linguistic regions. The overall reporting of the election campaign was diverse, and covered a variety of topics. Candidates largely resorted to paid advertisements in the main media outlets to publicise their platforms.

According to standard practice, an OSCE/ODIHR EAM does not envisage comprehensive and systematic observation of election day procedures, although members of the EAM did have the opportunity to visit polling stations around the

country on election day. The electoral procedures allow voters a choice as to where and when they cast their vote, including in person, by post and during an early voting period in advance of election day. Swiss voters abroad also had the opportunity to cast ballots, albeit under time constraints due to the timing of ballot delivery. The elections, while conducted with a high degree of autonomy in the communes, and with minimal assistance from the federal and cantonal levels, appeared to be administered in an overall professional manner.

The election process and procedures enjoy a high level of trust among candidates and voters, and the large majority of voters cast their votes by post; there is always a degree of vulnerability posed to any trust-based procedures without sufficient checks, and postal voting can also raise potential challenges to the secrecy of the vote.

International and domestic non-partisan election observation is not foreseen in federal electoral legislation. Nevertheless the OSCE/ODIHR EAM was accredited by the Federal Council and all levels of the election administration were highly cooperative and provided any information that was requested.

II. INTRODUCTION AND ACKNOWLEDGEMENTS

In response to an invitation from the President of the Swiss Confederation to the Organization for Security and Cooperation in Europe (OSCE), the OSCE Office for Democratic Institutions and Human Rights (ODIHR) deployed an Election Assessment Mission (EAM) for the 21 October 2007 elections to the National Council and the Council of States, comprising the Swiss Federal Assembly.

The OSCE/ODIHR EAM was deployed from 14 to 24 October 2007. It was led by Paul DeGregorio and consisted of ten election experts from nine OSCE participating States. In addition to experts based in Bern, the OSCE/ODIHR EAM deployed teams to Zurich, Lucerne and Lausanne. In line with OSCE/ODIHR methodology, the OSCE/ODIHR EAM did not undertake systematic or comprehensive observation of election day procedures.

The OSCE/ODIHR wishes to express its appreciation to the Federal Department of Foreign Affairs, the Federal Chancellery and the Cantonal Chancelleries for their assistance and support, and all electoral authorities, organizations and individuals for their cooperation.

III. BACKGROUND

Switzerland is a parliamentary democracy with a long standing democratic tradition. It comprises 26 cantons, that joined together to form the Swiss Confederation, whose Constitution of 1848 established political unity in Switzerland. The process of confederation saw the cantons cede part of their sovereignty¹ to the Confederation; all other powers were retained by the cantons and this remains largely unchanged to the present day.

¹ In relation to foreign and security policy, customs and monetary policy and other nationally applicable matters.

The Swiss Federal Assembly is elected for a four-year term and consists of two chambers - the National Council and the Council of States. The Federal Assembly meets four times a year for plenary sessions of three week duration, and members effectively serve in a part-time capacity while retaining their professional occupations. The National Council of 200 members is elected on a cantonal basis by proportional representation, each canton forming a single constituency with between 1 and 34 seats according to population. The Council of States is designed to represent the cantons – 20 cantons have 2 members each and six form half-cantons of one member each.²

Subsequent to each parliamentary election, which is taking place every four years in October, the Federal Assembly meets in December in a joint session of both chambers to elect the Federal Council, the seven-member high executive body (government) of the Confederation. The Federal Council is composed of seven ministers known as Federal Councillors, each of which has equal power, and each of which is responsible for one government department. Federal Councillors are elected for a four-year term. Each year, the Federal Assembly elects from among the seven Federal Councillors a president and vice president, following the principle of seniority to serve a one year term; this office rotates among the members of the Federal Council.

The Federal Council is elected under an arrangement between the four major political parties called "*magic formula*" 2-2-2-1, which was introduced in 1959 but ended in 2003, and which distributed two cabinet seats each for the Christian Democrats, Social Democrats, and the Free Democrats and a single seat for the Swiss People's Party. As the distribution of cabinet seats is a reflection of the proportional strength of the main parties in parliament, the growing strength of the Swiss People's Party in the past two parliaments has led to a realignment of the 2-2-2-1 system, with the Christian Democrats surrendering one of their seats to the Swiss People's Party after the 2003 elections.

All Swiss citizens over the age of 18 are eligible to vote in elections, whether resident in Switzerland or living abroad. Swiss citizens abroad register to vote either directly to their own commune or through their nearest Swiss diplomatic mission. The Swiss Confederation, with its population of 7.5 million inhabitants (2006) and voting age population of 4.9 million, is estimated to have 1.5 million resident foreign nationals (20.7 per cent). Sixty-four per cent of the population is German speaking, 20 per cent French and 7 per cent Italian, with 9 per cent speaking other languages as their primary choice.

The 26 cantons have their own respective constitutions, parliaments, governments and courts. They are further divided into 2,721 communes. Each canton decides the division of governmental responsibilities between it and the communes, which varies considerably across Switzerland. These communes either elect their own parliament or may also use direct democracy in the form of local assemblies and town meetings to take decisions.

The prevalence of various forms of direct democracy is a distinct feature of Swiss political life. At the federal level these take the form of referenda and popular initiatives. A referendum is required by the federal Constitution for all constitutional amendments and in reference to membership of some international organisations. To be successful, any question put at such a referendum must pass with a double majority,

² All traditional half-cantons resulted from the division of a pre-existing territory or canton.

where both a majority of voters and a majority of cantonal results must be in favour. There are also “optional” referenda at the federal level. Federal laws and international treaties of indefinite duration can be put to a national referendum if a petition of 50,000 citizens is made within 100 days of the publication of the decree. Such referendum questions need only a simple majority of the popular vote to pass.

IV. LEGISLATIVE FRAMEWORK

A. APPLICABLE LEGISLATION

Elections in Switzerland are conducted under federal laws, legislation by the 26 cantons and regulations at communal levels. Federal legislation provides rules for elections to the National Council, but many aspects of these are left in the competence of cantons, resulting in a great variety of regulations. Competence for legislation for the Council of States rests with the cantons.

The most important legal acts governing elections include the Constitution (1999), the Federal Act on Political Rights (1976), the Federal Decree on Political Rights (1978), the Radio and Television Law, the Law on the Federal Court (2005) and the Rule of Procedures of the National Council (2003).³

B. STATUS OF POLITICAL PARTIES

There is no specific political party legislation. Parties operate under the same rules that apply to other associations under the Civil Code; being not-for-profit associations, they are not obliged to register (article 52 II Civil Code). Most political parties are organised in the cantons or even at lower levels, rather than at the federal level.

The Federal Act on Political Rights (hereafter ‘Federal Act’) allows parties to register as such with the Federal Chancellery, provided the party has at least one deputy in the National Council or at least three deputies each in three cantonal parliaments (article 76a). Registered parties can more easily register lists of candidates for elections, as for example, signature requirements do not apply.

C. ELECTORAL SYSTEM

1. National Council

The 200 members of the National Council are elected through a proportional system with the cantons as constituencies. Seats are allocated according to the population of the cantons. The number of seats per canton varies from 34 for the canton Zürich, to one seat for each of the six smallest cantons. The smallest cantons are over-represented in that their population is less than the average population represented by other seats, but this is not on a significant scale.⁴

³ Federal and cantonal legislation can be accessed through: www.admin.ch.

⁴ The Code of Good Practice in Electoral Matters (point 2.2) of the Council of Europe’s Commission for Democracy through Law indicates that the geographical criterion and administrative, or possibly even historical, boundaries may be taken into consideration. The permissible departure from the norm should not be more than 10%, and should certainly not exceed 15% except in special circumstances (protection of a concentrated minority, sparsely populated administrative entity).

In the six one-seat constituencies, the elections are based by definition on a majoritarian system. In these cantons voters receive an empty ballot on which they insert the name of the candidate they vote for. The candidate receiving the most votes is elected.

In the proportional elections, voters receive prepared ballots for each party list (indicating party name/number/names of candidates) and a 'blank' ballot with no indications. The voter has several voting options:

- vote for a party list in its entirety;
- vote for a party list, but delete names and add names from other lists (*Panachage*), or write a name twice (*Kumulieren*)
- vote on the 'blank' ballot inserting any candidate names he/she wants; the voter can also insert a party name/number here.

A vote for a candidate is counted for him/her and for his/her party. If a ballot indicates a party preference, but less candidate names than available seats in the constituency, the 'empty' lines are counted for the party. There is thus a difference in party votes and candidate votes. Votes for parties and candidates are counted separately. In a first step, it is calculated on the basis of votes per party, how many seats each party won (article 40, 41 Federal Act). The calculation method used is *Hagenbach-Bischoff*.⁵ In a second step (art.43 Federal Act), it is determined which candidates of a party won seats (those candidates of a party who won most candidate votes). The voting options are complex, though a voter can use the simple option of just voting for a party list. Overall the system has the positive effect of enhancing voters' choices.

Two list submitters can "combine" their lists. Combined lists are treated as one list in the first step of calculating seats on the basis of votes. In a second step, seats won are awarded to the individual lists.⁶ Most Swiss parties make frequent use of the possibility of combining lists. Combining lists in this way does not necessarily mean that parties will campaign together. Combined lists are indicated on ballots. There are however different practices in the cantons: in some cantons, the ballot material clearly indicates which lists are combined; in other cantons there is only a reference on the bottom of the ballot of a given party, indicating ordinal numbers of party lists with which it is combined. It may not always be clear to all voters (e.g. first time voters) which lists are combined and what the implications of this practice are. The official voter information guide did not address the issue.⁷ The law stipulates that list combinations should be indicated on the ballots (article 31 II Federal Act), but provides no further details.

Federal legislation could provide more detailed rules on how to publicize list combinations to ensure that all voters are aware of such combinations and their implications.

⁵ While this term is sometimes used to denote a highest remainder method, in the case of Switzerland it follows the logic of the *d'Hondt* method, while using another way of arriving at the same result (art. 40, 41 Federal Act).

⁶ It is also possible for parties to register sub-lists (e.g. by gender, age, or party wing). Votes for these lists are all accounted for the same party and seats allocated to those candidates who win most votes on any of the lists.

⁷ The Federal Chancellery issued to all voters an instructive guide on the political system, the polling process and a self-description of all parties ('Auf eine farbige Schweiz'/'La Suisse vote en couleur').

In case there are less or the same number of candidates as seats to be won, the cantonal authorities can declare all candidates elected without voting ('silent election' under article 45 I, 47 II Federal Act).⁸ The election is "silent" when, beside the only standing candidate, no other candidate is running for office or is proposed as a candidate. In the 2007 elections this occurred in a number of cantons.⁹ The rule is motivated by a concern of low turn-out for elections without competition.¹⁰ This could have undesired consequences, including the encouragement of agreements being made between parties to the detriment of voters.¹¹ In the canton of Nidwalden, both the candidate for the National Council and the candidate for the Council of States were elected "silently", so voters in this canton did not participate at all in the 2007 elections.

2. Council of States

The system and procedures for the elections of the 46 members of the Council of States are determined by each canton (art.150 III constitution). All cantons, except one (Jura), use a majoritarian election system, often providing two rounds of voting if no candidate gained more than 50 per cent of valid votes. The cantons of Zug and Appenzell Innerrhoden voted for the Council of States ahead of 21 October.

D. PARTY AND CAMPAIGN FINANCING

There are no legal provisions on party and campaign financing at federal level, although campaigns for federal elections are increasingly more focused on nation-wide platforms. Parties can receive unlimited funds from any source without any requirements of disclosure.

According to almost all interlocutors, the campaign spending by parties for the 2007 elections was significantly higher than in earlier elections. They also indicated that the SVP/UDC would appear to have conducted the best-funded campaign.

The issue of party and campaign financing is becoming increasingly controversial in Switzerland. Many interlocutors indicated that undisclosed funding allows powerful interest groups and individuals to influence elections, and in particular referenda on questions that concern them.¹²

⁸ As far as majority elections for the national council are concerned, the cantons have to adopt such a rule (see art.47 II act on political rights). According to the election administration the cantons of Nidwalden and Obwalden introduced the rule. For elections to the council of states some cantons also introduced the rule.

⁹ In the canton of Nidwalden for the National Council and the Council of State elections and in the cantons of Freiburg, Lucerne and Wallis for the second round of elections on the second seat (in each case one of the two seats had been won in the first round).

¹⁰ E.g. in these elections there was only one candidate in the canton of Uri. Turn-out was only 24 per cent.

¹¹ It may also undercut the logic of two-round elections, where voters should feel free to vote as they wish, without tactical considerations. If they fear that all candidates on their side of the political spectrum will withdraw because of poor first round results, they may be inclined to cast their vote to the most promising candidate on their side of the political spectrum, rather than the one they like best.

¹² According to recent opinion polls, 64 per cent of the Swiss would welcome steps towards campaign finance disclosure. See *Neue Zürcher Zeitung*, 22 October 2007, p.11

The OSCE participating states recognized the need for transparency of election procedures at the Maastricht Ministerial Council (2003).¹³ The Council of Europe's Commission for Democracy through Law ("Venice Commission") notes in its 'Guidelines for Financing Political Parties'¹⁴ that "the transparency of private financing of each party should be a main objective"¹⁵ and that "the transparency of electoral expenses should be attained through the publication of campaign accounts."¹⁶ In its 'Code of Good Conduct for Elections' the Commission notes that "political party, candidates and election campaign funding must be transparent."¹⁷

There is no specified election campaign period; it is therefore difficult to distinguish between campaign and party funding. However, given that campaigning on referenda questions takes place regularly, it may be most suitable if there was a general requirement for disclosure of a political party and an association's income and expenditures.

In order to increase the transparency of the electoral process, it should be considered to introduce an obligation for disclosure of parties' and political associations' financial income, sources and expenditures.

E. ELECTION OBSERVATION

International and domestic non-partisan election observation is not explicitly foreseen in federal electoral legislation. The OSCE/ODIHR EAM was however accredited by the Federal Council and all levels of the election administration were highly cooperative and provided any information that was requested. According to the election administration, ways are always found to allow interested non-partisan observers to follow the election process. The presence of political party representatives to observe different stages of the electoral process is regulated by the cantons in different ways. No political party raised concerns on this issue.

While the accreditation and co-operation received by the OSCE/ODIHR EAM was most welcome, in order to fully comply with paragraph 8 of the 1990 OSCE Copenhagen Document, the electoral legislation should be amended to specifically allow for international and domestic non-partisan observers.

V. ELECTORAL ADMINISTRATION

As with many features of public life in Switzerland, the organisation and administration of federal elections is not identical across the country. This is because the administration of federal elections is the responsibility of the cantons. The federal government sets broad parameters within which the elections to the National Council are conducted by the cantons. The elections to the Council of States are entirely the responsibility of the cantons, as these elections choose the 'representatives' of the cantons.

¹³ MC Decision no. 5/03 on elections.

¹⁴ 6 December 2000, CDL-PP (2000) 6.

¹⁵ *Supra* point 7.

¹⁶ *Supra* point 12.

¹⁷ Point 2.3. dd, 'Code of Good Practice in Electoral Matters', CDL-AD (2002) 23.

For the National Council, at the federal level the necessary co-ordination tasks are undertaken by the Political Rights Section of the Federal Chancellery. As the elections schedule is fixed by law and the dates are known well in advance, the Political Rights Section remind the cantons of the relevant dates for each step of the process and distribute important information relevant to the respective election.

A. CANTON AND COMMUNE LEVEL

Cantonal law sets out the detailed procedures to be followed in conducting the election, as the federal law generally sets out broad parameters to follow. The cantonal laws do not appear to be overly prescriptive, but do provide for efficient elections which enjoy broad confidence and with results overall accepted by participants.

It is not possible to describe here in detail the arrangements undertaken in each canton. However, some broad conclusions can be drawn.

At the cantonal level, federal electoral administration tasks are largely undertaken by cantonal civil servants. These officials undertake the same tasks during federal referenda as well as during cantonal elections and referenda. Some may also offer varying levels of assistance to communal and church¹⁸ elections. These officials are to implement their duties in a professional and efficient manner, and to be mindful of the important political rights they are safeguarding. It appears that trust and confidence in these civil servants is high. There are obvious networks of cantonal officials who share experience and practice in conducting elections across Switzerland, and a clear link and good working relationship with the responsible federal officials.

Further responsibilities are delegated to the communal level, most importantly the dispatch and return of the ballot packets¹⁹ to electors, early voting and the operation of polling stations, and the count itself. Communes are also responsible for extracting the electoral register from the communal population registry.

Arrangements differ from canton to canton, and sometimes from commune to commune, as to whether any political party representatives take part in the electoral administration. Similarly, in some cantons and communes, electors are chosen to participate in polling and counting processes at random, and in others are directly employed. In some cantons there are two tiers of local government, with a district level between the commune and canton that may have electoral management responsibilities. While this variation lacks uniformity, in the limited number of cantons accessed, the OSCE/ODIHR EAM noted no evidence that this variation in constitution and staffing of electoral management bodies had an impact on the efficiency of the administration of the elections.

B. REGISTRATION OF VOTERS

Interlocutors of the OSCE/ODIHR EAM indicated no suggestions that the electoral register was not accurate, and no political party commented on this aspect of electoral

¹⁸ Church elections are public elections for the established churches.

¹⁹ The packet contains the voter registration card (printed at communal level), the Council of States and National Council ballot papers (printed at cantonal level¹⁹), a secrecy envelope and an information booklet "Switzerland Votes in Color" provided by the federal chancellery. Some communes also included a flyer on ballot information for both chambers (printed at cantonal level).

administration. It was, however, not always clear at what date the register was extracted from the population registry. If this was not done on a common date across Switzerland, it would theoretically be possible for double voting to occur if an elector received ballot packets for their old and new residence. In some cantons the lists are cross-checked within the canton to avoid this, but there is no national date for extraction or national mandate for cross checking.²⁰

Swiss citizens abroad can register to vote through the nearest Swiss diplomatic mission,²¹ which forwards the registration details to the relevant local commune. The commune sends updated forms to electors abroad every four years, and if this is not returned, the elector will be removed from the register. The elector should also notify the commune of any changes to their postal address abroad, as this is how they receive their ballot packet. While the OSCE/ODIHR EAM received few comments suggesting that the registration process was not sufficient or well understood, the Council of the Swiss Abroad, which provides information on the process along with Swiss embassies and consulates, said that they did receive some complaints that the re-registration requirement made it difficult for some voters abroad to stay on the rolls.

VI. CAMPAIGN

The electoral campaign was generally conducted through interviews, round tables, debates, and canvassing with leaflets, and was covered by both the electronic and print media. However, advertisements were only permitted in printed media since electronic media advertising is not allowed during the campaign by federal law (see media section). The parties also made use of the internet by inserting their political platforms, slogans, photos videos, petitions, candidate meeting agendas during the campaign and, in some cases, creating blogs with the voters. In addition, local electoral campaign tradition played an important role.

The campaign for the Council of States was characterised by a stronger personalization focusing on the candidates' qualities more than the respective party platform. This was also due to the smaller number of seats available.

Within the cantons the municipalities created different opportunities for political parties, such as in Luzern Canton where four municipalities out of 96 decided to collect all parties' leaflets and send all them together in one envelope to each voter, with the commune paying the postal cost. In Lausanne commune the cost of posting billboards was around two Swiss francs, while in the rest of the Vaud canton it was around 48 Swiss francs.

Different rules in different municipalities could have generated unequal opportunities for parties and candidates, and such rules could be harmonised to ensure more equitable conditions.

The main issues to emerge during the campaign were the state of the environment, and closer to voting day, immigration. This issue came to the national forefront with the

²⁰ The Council of the Swiss Abroad says that "Five cantons have central voting registers and, in these elections, four of these recorded votes from abroad separately" (<http://www.aso.ch/en/politics/elections-2007>).

²¹ With specific arrangements in place for those Swiss resident in Liechtenstein.

issuance of the Swiss People's Party (SVP/UDC) campaign poster that featured three white sheep kicking a black one away from the Swiss flag. The poster was perceived by many as racist and as playing on voters' fear of immigrants. It also generated a protest in Bern on 6 October 2007 at an SDP/UDC rally, where demonstrators opposed to the above-mentioned poster campaign clashed with policemen.

The proposal initiated in spring 2007 to seek the required 100.000 signatures for launching a federal vote to ban minaret (mosque) construction contributed to this aspect of the campaign. In addition, the SVP/UDC started to collect signatures for a nationwide vote to introduce the expulsion of condemned underage resident foreigners with their families, implying that criminal activities are not personal but a family based responsibility. As a result of this polarising issue, the billboards of Mr. Blocher (SVP/UDC), who was also the Federal Minister of Justice, were vandalised on many occasions as he was strongly associated with this campaign.

Along with national issues, many other topics had an impact during the campaign at the cantonal and communal level, and specific local issues played an important role in the campaign. In Lausanne, for example, the issues of the construction of a third railway line connecting Lausanne to Geneva received much attention.

A project called Smart Vote has been established on the internet²² where voters could see which party they are closer to by answering a set of issue-oriented questions. This instrument is intended to help voters understand which party most closely corresponds to their values and political beliefs. A large majority of candidates presented their profiles in order to allow the programme to work. This program was looked upon favourably by many interlocutors.

The Swiss Confederation has no reporting requirements for the receipt and expenditure of funds for the federal campaign. Reports in the media suggested that campaign spending reached record levels during this campaign. Several political parties complained about the rise in campaign expenditure, allegedly that of SVP /UDC, and asked for more transparency in the campaign finance with the introduction of a law to regulate party funding and to permit a higher level of transparency. (See Party and Campaign Financing section above)

VII. THE MEDIA

A. MEDIA LANDSCAPE

Switzerland's linguistic and cultural diversity, as well as a long-term tradition of freedom of expression, have enabled the creation of a diversified and pluralistic media landscape. The media market is principally structured along linguistic lines and a number of local media are present in each of the four Swiss linguistic regions. Citizens are served by a large number of media outlets: more than 200 press titles are published at local level, some 75 radio stations and 82 TV channels broadcast on a regional or local basis.

²² http://www.smartvote.ch/election_home.php.

The liberalisation of the broadcasting sector in the '80s and '90s opened the market to private operators that now compete both with the public service broadcasting SRG SSR *idée suisse* and with the foreign television stations whose penetration is favoured by the geographical and linguistic characteristics of the country. The public service broadcaster SRG SSR is the main national broadcaster. It is not a state institution but an association entrusted with a public service mandate. Its mission is the production and dissemination of radio and television programs in the country's four official languages.²³ SRG SSR's directors are nominated by the Federal Council, but they are independent from the government and political parties. SRG SSR has a total of 24 radio and TV programmes in the four linguistic areas of the country.

In television, the competition is primarily between SRG SSR's three television channels (*Schweizer Fernsehen* – SF, *Télévision de la Suisse Romande* – TSR and *Televisione Svizzera di lingua Italiana* – TSI) and foreign broadcasters whose aggregate market shares exceed the 50 per cent in each of the three linguistic areas. Conversely, the Swiss commercial TV stations, operating exclusively on a local basis, hold only small market shares. SRG SSR's 18 radio stations compete with a number of commercial and community radio stations operating at local and regional level.²⁴

The market also displays a high density of newspapers and a strong regional and local dimension reflecting the linguistic differences. No nation-wide newspaper is published even though three dailies are distributed all over the German speaking regions (*Blick*, *NZZ* and *Tages-Anzeiger*). Free-of-charge dailies have been constantly gaining readership in the last 8 years and the German language *20 Minuten* is now the most read newspaper.²⁵ The press daily circulation is very high at around 4 million copies.

B. REGULATION FOR ELECTION COVERAGE

The Swiss Constitution guarantees freedom of expression and freedom of the media,²⁶ It defines the role, the rights and the duties of broadcasting services by conferring upon them a clear-cut public service remit and ensuring their autonomy in programming matters.²⁷ The Law on Radio and Television (LRTV) of March 2006 sets the legal framework informing the activities of all licensed electronic media. In particular, the LRTV indicates the main basic principles TV and radio programming must abide by: objectivity and truthfulness, as well as diversity, pluralism, independence, autonomy and accountability.²⁸

There is neither any specific legislation for media coverage of the election campaign, nor are there provisions establishing rights of access to the media for political parties and candidates. Rather, the existing regulatory model for electronic media is a mixture of statutory provisions of a general nature – namely the LRTV and the related Ordinance on Radio and Television of March 2006 - and a system of self-regulation. The LRTV provides guidance to electronic media on media coverage of political events, including elections; in this regard coverage must comply with objectivity in

²³ SRG SSR Concession of 18 November 1992.

²⁴ Source: SRG SSR, data available at: <http://www.srg-ssr.ch/228.0.html?&L=4>.

²⁵ Source: WEMF REMF, report available at: <http://www.kleinreport.ch:80/meld.phtml?id=30419>.

²⁶ Federal Constitution of the Swiss Confederation of 18 April 1999 (amended 15 October 2002), articles 16 and 17.

²⁷ Federal Constitution of the Swiss Confederation of 18 April 1999 (amended 15 October 2002), article 93.

²⁸ Radio and Television Law of 24 March 2006 (784.40), articles 4.2, 4.3 and 6.

reporting, diversity of facts and opinions, professionalism, pluralism of ideas and non-discrimination,²⁹ with a particular emphasis on SRG's obligations.³⁰ In addition SRG SSR concession reiterates the obligation for diversity and objectivity imposed on the public service radio and television.³¹ Advertisement on radio and television for candidates, political parties and individuals engaged in public functions, as well as objects of popular referenda, is prohibited³².

Parallel to statutory norms, the public service broadcasting SRG and its enterprise units have elaborated on a number of principles that must inform their editorial coverage.³³ In addition, on the occasion of Federal elections, the SRG SSR General Directorate issued detailed instructions on election coverage for its enterprise units.³⁴ The instructions set forth the principles and rules informing both election-related and non-election programmes. Consistent with the jurisprudence of the Federal Tribunal,³⁵ the instructions defined the criteria for the allocation of airtime to candidates during debates and presentations of political parties: access was guaranteed on a proportional basis, according to parliamentary representation at Federal or Cantonal level and the number of candidates lists submitted in different cantons. These rules were further specified by each of the different SRG SSR regional units so as to ensure adequate implementation. The SRG informed political parties of the rules adopted, and the regional units' election plans were fully available to election contestants, political parties and the general public.

There are no specific legal provisions for print media. Newspapers and magazines are allowed to sell advertising space to candidates and political parties. The Declaration of Duties and Rights of Journalists³⁶ - defining the obligations for professional and accurate reporting - represents the only self-regulatory instrument guiding journalists' activities.

The dispute-resolution mechanism against electronic media is based on conciliatory principles and decentralised structures. In the first instance, complaints related to the editorial content of programmes or to disputes on denied access to programmes of any kind can be addressed to the broadcasters' Ombudsmen – 4 for the SRG SSR's regional units and 3 for private broadcasters. They act as arbitrators and mediators. If no resolution is reached, then the complaint can be filed at the ICA (Independent Complaints Authority), the federal authority in charge of assessing complaints against radio and television programmes³⁷. The ICA cannot act *ex officio* and it exercises limited enforcement powers. The ICA's decisions can be appealed to the Federal

²⁹ Radio and Television Law of 24 March 2006 (784.40), articles 4 and 6.

³⁰ Radio and Television Law of 24 March 2006 (784.40), article 24.4 a.

³¹ SRG SSR Concession of 18 November 1992, article 3 – Mandate in terms of programming.

³² Radio and Television Law of 24 March 2006 (784.40), article 10.

³³ SRG SSR Charter of 24 February 2006, articles 1, 4, 5 and 6.

³⁴ SRG Instructions for Election Coverage 2007 of 8 March 2007.

³⁵ Decision BGE 125 II 497 (Claude Tamborini v. the Independent Complaints Authority); Decision BGE 97 I 73 (Vigilance, Mouvement politique genevois v. Société suisse de radiodiffusion et télévision et Département fédéral des transports et communications et de l'énergie); Decision BGE 119 Ib 250 (Egger et association Légital v. Département fédéral des transports, des communications et de l'énergie et Société suisse de radio-diffusion et télévision (SSR)).

³⁶ <http://www.presserat.ch>

³⁷ Federal Constitution of the Swiss Confederation of April 18, 1999 (as amended until October 15, 2002), article 93; Radio and Television Law of 24 March 2006 (784.40), articles 82 – 99.

Supreme Court. During the election campaign, most of the complaints were solved at Ombudsman level and only three complaints were subject to the ICA's examination.³⁸

The Federal Office of Communications (OFCOM) is the body in charge of the supervision of advertising, including any violations regarding the ban on political advertising. During the election period, the Office investigated a television show featuring ex-Justice Minister Blocher, to establish whether there had been any financial agreements between the producers and the three TV stations broadcasting the show. The investigation was unable to determine whether there had been such an agreement.

The Press Council deals with complaints related to journalistic ethics, media and journalistic professionalism, as well as matters of freedom of press and opinion. It has jurisdiction over print and broadcast media. It can receive complaints and it can also actively investigate relevant issues. The Council has no enforcement powers.

The overall reporting of the election campaign was regular and diverse, covering a variety of election – related issues and topics. Candidates and parties had access to the main media to illustrate their platforms. The personalisation of the election campaign was reflected in the media, which focussed a relevant part of their coverage on political personalities rather than policies. Broadcasters, particularly the SRG SSR, provided candidates and political parties with equitable coverage and access through a variety of formats often targeted to specific audiences, including women and young voters. Similarly, press coverage was characterised by regular and pluralistic information on candidates and issues. Parties resorted to paid advertisement in the main publications, on a large scale, to promote their candidates and programmes.

A higher and more effective level of co-ordination between the subjects involved in the complaints mechanism – the Ombudsmen, the ICA and the OFCOM – would contribute to the harmonisation of jurisprudence regarding dispute resolution in the broadcasting sector. Further, a more precise definition of the subject matter regarding the ban on “political advertising” might be useful to avoid complaints and investigations in future elections. Furthermore, it is advisable to review article 17 of the Ordinance on Radio and TV so as to specify in detail when such issue-oriented advertisement may be banned during the election campaign for Parliamentary elections.

VIII. PARTICIPATION OF WOMEN

Women and men have equal access to the election process. Women received the right to vote on the federal level in 1971. However, the number of women candidates standing for election has increased very little during the years, and during recent elections the ratio of women candidates has remained unchanged since 1999 at 35 per cent. In the 2007 election, the number of women elected increased slightly for National Council. Fifty women were elected as members of the National Council in 2003 (25 per cent) and fifty seven (28.5 per cent) for 2007 federal elections.³⁹

³⁸ Radio DRS 1, Regionaljournal Zürich/Schaffhausen, *Anfängliche Nichtberücksichtigung einer Kandidatin zur Podiumsdiskussion zu den Ständeratswahlen*, decision b.570, 02.11.2007, available at http://www.ubi.admin.ch/php/dokument_fr.php?id=b.570.

³⁹ <http://www.parlament.ch/homepage/in-statistiken-tabellen/in-st-frauen-parlament.htm>).

Among the major parties the share of women elected was as follows: 6 women were elected from FDP/PRC (19.4 per cent of seats received), 12 from CVP/PDC (38.7 per cent), 18 from SPS/PS (41.9 per cent), 8 from SVP/UDC (12.9 per cent) and 10 from GPS/PES (50 per cent).⁴⁰

The number of women who won seats in Council of States for the 2007 elections decreased from 11 to 10.

Elections	Number of female candidates	Percentage
1971	267	16 per cent
1975	329	17 per cent
1979	350	18 per cent
1983	434	23 per cent
1987	704	29 per cent
1991	834	33 per cent
1995	990	35 per cent
1999	983	35 per cent
2003	993	35 per cent
2007	1088	35 per cent

It appears that political parties make a varying degree of effort to attract women voters and candidates. While some parties, including SPS/PS and GPS/PES, had a high number of women candidates on their lists, and have separate women's list to attract women voters, some political parties traditionally have very few women on their lists, including the SVP/UDC. The Federal Commission for Women's Issues, an independent governmental body that promotes women's participation could be more effective in following up their recommendations to political parties', media and civil society representatives. Women appeared to be well represented in the election administration process.

Political parties and civil society should be encouraged to consider further measures to develop programs that may increase the number of women candidates. In addition, the Swiss government may further consider the development of mechanisms that enhance women's political participation.

IX. CIVIL SOCIETY AND YOUTH PARTICIPATION

Due to the high level of trust in the Swiss electoral system, and given the major role of the media, there are hardly any NGOs involved in observing elections or other election-related activity. Interest groups tend to focus more on referendum issues. During the 2007 federal election campaign, informal temporary initiative groups' activities were observed as a spontaneous reaction to the sensitive campaign issue of immigration raised by the "black sheep" poster.

Given the complexity of the Swiss voting system, it has been pointed out to the OSCE/ODIHR EAM that it could be difficult for first time voters to understand all the details in it. School education provides basic knowledge, but young voters might need more information about all the options in voting. In some communes, first time voters

⁴⁰ http://www.politik-stat.ch/nrw_2007CH_de.html.

receive additional informational booklets from the government which could be considered as best practice. However, some initiatives were conducted to enhance youth participation and involvement in politics by organising public debates on television: SRG SSR television organised prior to elections three debates on youth topics with young politicians. The Young Commitment initiative organised 23 events in 20 cantons for 18-24 year-old students debating with politicians. A hotline to provide information on voting, and a website for first time voters, were also created at federal level. Some interlocutors mentioned the introduction of electronic voting as a potential way to attract young voters.

A study from the Institute for Political Science in Zurich shows a steady growth in turnout of 18-24 year-olds from 27.3 per cent in 1995 to 46 per cent in 2003.⁴¹ While 27.3 per cent of Swiss citizens are between 20 and 39 years old, the representation of that age group in both National Council and Council of States remains low with 10.7 per cent (26 out of 237 elected members).⁴² In the National Council there are some 24 members between 20-39 years old (11 per cent), including 9 (20 per cent) among the 53 newly elected members. The average age of the Council is 51, and has remained stable since 1971. In the Council of States, so far there is only one elected - out of 15 newly elected (6.7 per cent) - who is between 20-39 years old. The average age in the Council of States is 51 years of age.

Most of the main parties have a section for young voters but suffer from a generally low involvement of people in politics. Some parties chose to have additional cantonal lists for candidates under 40 years old.

Consideration could be given to increase election information and education for first time voters in order to enhance youth participation.

X. VOTING

For the 2007 Federal Elections, some 4,913,442 citizens, around 65 per cent of the resident population, were eligible to vote for the election of all 200 members of the National Council.⁴³ Out of those, 2,400,373 (48.9 per cent) cast their ballots, either by postal voting or directly at the polling stations opened by the communes. For the Council of States, the number of people eligible to vote is lower, as only ten cantons allow their citizens living abroad to vote in this election.

The electoral procedures allow voters a choice as to where and when they cast their vote, including in person, by post and during an early voting period in advance of election day. The structures and procedures for election administration maintain broad confidence, sufficient to underscore the array of options available to Swiss voters to cast their ballot.

⁴¹ Study by the Institute for Political Science in Zurich, 2004 – reported in 20 minutes dated 16th October 2007.

⁴² Office Fédéral de la Statistique.

⁴³ Three members of the Council of States were elected at an earlier date. Two out of the 26 cantons, Appenzell Innerrhoden and Zug, elected their Council of States representatives in April 2007 and October 2006, respectively. This is due to the fact that the cantonal laws regulate the date of the election of the members of the Council of States. Also, this figure does not include the Nidwald Canton voters, where the only running candidate for the National Council was elected through silent vote.

A. POSTAL VOTING

The Swiss postal voting system for federal-level elections was formerly introduced in 1994, although cantons began to use 'default' postal voting in 1978. In recent federal elections, over 80 per cent of Swiss voters have used postal voting. However, the use of postal voting varies by cantons. A federal study for the national referendum held on 27 November 2005, found that 81.5 per cent voted in advance by mail, whereby the proportion of voters taking advantage of this possibility varied between 15.8 per cent (canton Glarus) and 97.3 per cent (canton Lucerne). For that federal election, in the commune of Lucerne, 98.6 per cent of voters used the postal vote. As a consequence of the high rate of postal voting, fewer polling stations are established, which in turn could impact upon the voters' choice of modality for voting.

The Federal Law on Political Rights requires the cantons to deliver the postal voting materials to registered voters by the latest ten days before election day. However, the cantons can mail the materials anytime before this, if they are logistically prepared. This mainly depends on the cantonal deadline for accepting the candidate nominations (the federal limit for the nominations was 30 September, 21 days before the election day).

In practice, starting from four weeks to just ten days before the 2007 federal election, each registered voter, including Swiss citizens abroad, were sent the voting materials (ballot packets) by post. Each voter received the materials in the dominant language of the canton in a re-usable envelope that was used to return the completed ballot papers; in the officially multi-lingual cantons materials were in all official languages.

Communes are responsible for posting the ballot packets. In some cantons, the canton posts the ballot packets to electors abroad. Some communes pay for the postage to return the ballots, while others do not. The fact that communes are given significant flexibility when to mail ballots, and to pay or not pay for return postage — even within the same canton — may mean that some voters have more advantage than others in the voting process.

The heavy use of postal ballots also means that the system is heavily reliant on the postal service. The OSCE/ODIHR EAM was informed of some concerns regarding delays in the postal system, and further information from some cantonal authorities that they were confident that the system could cope.

The voter is expected to return one ballot paper or list for each election, sealed in the secrecy envelope, plus the signed registration card, all sealed in the re-used envelope received initially.

Voters can mail their envelope or they can bring it to the Communal office, where often there is a receptacle set up outside for the collection of postal votes. In some areas the return postage is already paid, and in others the elector must pay the return postage. The postal costs are CHF 1 (0.6 €) for delivery within 24 hours and CHF 0.85 (0.51 €) for delivery within 48-72 hours. Many voters deliver it directly to their commune, which is free-of-charge. A postal vote can be counted if the commune has received the voting materials by the respective close of polls.

Upon receipt, the polling staff of the commune checks the envelope for invalidity (namely for lack of registration card or lack of voter's signature on it); in some areas, and if there is still time, the envelope is mailed back to the voter in order to correct any mistake at this stage.

It appears that this is the only check performed on the returned ballot packets. The signature is not compared to an existing control signature, nor is the electoral register marked to show from whom a ballot has been received. In some areas the elector also provides a date of birth on the card, but this is also not checked.

The dates by which the cantons and communes send the voting materials to the voters are inconsistent throughout the Federation; as such, different voters may have from ten to 30 days or more to consider their voting options. This also implies that, in case of voter errors, some of the Swiss citizens are offered the opportunity to correct this, while others are not. This should be addressed in order to provide equal opportunities for all Swiss citizens who vote in the federal elections.

Security of the ballots received is supposed to be provided at the commune where the materials are usually sorted by district, so that ballots will be counted together with those cast in person on election day.

In previous years some issues had been encountered at old people's homes and nursing facilities, where party activists would reportedly gather and misuse the postal ballots of others. This was not reported to be a widespread phenomenon, but as underscored above, would be relatively easy to do and is unlikely to be detected.

The system could be vulnerable to manipulation when no checks are undertaken. Given the current level of checking, the use of 'default' postal voting, where all electors are sent a ballot packets, does make electoral malfeasance possible by anyone willing to intercept and use otherwise genuine ballot packets.

The 2007 federal elections also saw several printing or mailing errors or late deliveries in the cantons of Zurich, Aargau and Fribourg, corrected in time by the responsible authorities.

The Federal Act on Political Rights, as well as cantonal laws and regulations, provide for the secrecy of the vote as being a responsibility of each individual voter. Interlocutors acknowledged that this cannot be directly enforced with postal voting, but referred to the political culture of Switzerland and the ethical stand of the voters, which would theoretically ensure that secrecy of the vote is guaranteed.

Swiss voters' confidence in the electoral system and authorities is reciprocated by the trust which the system has in the voters. It is a fact that postal voting may facilitate family voting; the Swiss Federation relies on each voter to protect the secrecy of his/her vote and, by doing so, maintains a credible postal voting system which should uphold the secrecy of the ballot.

B. POLLING STATION VOTING

In line with the standard OSCE/ODIHR practice, the OSCE/ODIHR EAM to Switzerland did not comprehensively or systematically observe voting and counting proceedings. However, on election day the OSCE/ODIHR EAM members visited a number of polling stations and counting centers in the cantons of Bern, Luzern, Vaud and Zurich.

The federal legislation outlines the framework within which the cantons and communes decide to organize the electoral process. The opening hours and days of the polling stations vary by commune (the federal law requires that the stations are opened for a minimum of two out of four days prior to the election day for a period of early voting), and the customary morning opening hours are 10.00-12.00, although some are open for only one hour on election day. Also, the number of the polling locations varies by commune (with a minimum of one).

Usually the communes maintain the commune voters' registers, including those of Swiss voters living abroad. It is not mandatory, but the polling stations may be provided with a copy of the voters list on election day. The data in this copy can vary and may include the voter's social security number, name and address, place of origin (different from place of birth), data of his/her registration within the respective district and the registration card number.

On election day, voters can cast their ballots in person at the polling stations. In some cantons they can also drop their ballot packets into a postal box typically located outside of their communal building.

During in-person voting at the polling station, the polling station staff checks the registration card (which in some cantons must be signed). When voting in-person, no further identification proof is required from the voters. The polling station committee retains the registration card, and the ballot papers are stamped on the back before being cast. In some areas, provisional registration cards can be issued at the polling station, upon the voter's request. Such a voter is checked for identification and then identified in the voters list, if available. If the card is issued, no receiving signature is required from the voter.

To vote for the National Council the elector uses either a pre-printed list or completes a blank list. Both can feature "*panachage*" or accumulation techniques.

Provisions that allow for tracking the issuing of provisional registration cards, possible ID checking of voters and consistent crossing off the voters from the voters list could be introduced to limit the risk of multiple voting.

In general, in the limited number of polling stations observed by the OSCE/ODIHR EAM, the elections appeared to be conducted in an overall effective manner and calm atmosphere. The following polling processes were noted:

- The communal employees are responsible for setting up the polling stations and for the delivering and collecting of voting materials.
- Some of the locations visited did not appear to allow easy access to disabled voters.

- No voter education materials were posted at the polling stations; however, all the registered citizens receive some voter education materials with their postal vote envelope.
- The polling stations are staffed by at least three members (chairperson and two members). Depending upon the commune, they are either nominated by political parties to be appointed by the communal councils for up to four years, or they are randomly selected by the commune from the voters' registry (same applies for the counting staff). In the first case, usually the staff is more experienced, having also to assist in the multiple federal, cantonal and commune referenda.
- On election day, many voters appeared at the polls with the ballots they had received by mail, already marked; in some cantons ballots are also available at the polling stations. Some polling stations have polling booths, while others do not. However, only a few of the voters who were voting in person on the election day were actually using them when marking the ballots, as most appeared to be marked in advance.

The OSCE/ODIHR EAM observed that several voters were confused about the in-person voting procedures and the use of the secrecy and return envelopes. Some voters complained of violation of the secrecy of vote (as the procedures require that their secrecy envelope, which should have been used for postal voting, has to be open when voting in person, in order for the ballots to be stamped on their reverse side before being cast). Some voters opened their postal envelopes while waiting in queue, instead of just dropping them off with the polling station committee; others directly cast the secrecy envelope into the ballot box (during counting such ballots are invalid if they don't have the polling station stamp).

A few voters brought two open sets of ballots. Depending on the canton, the second vote could be either cast as a proxy or cast as a postal vote. Other voters brought in two ballots per election (in the case of a specific party which was running on two sub-lists), and a few of them insisted on casting them both, despite the fact that only one was stamped by the polling station committee.

Whilst the voters receive education materials with their postal vote, a more sustained voter information campaign should be implemented, especially on election day procedures (use of postal vs. secrecy envelopes; secrecy of the ballots when presenting them to be stamped on the reverse) and the use of sub-lists; in addition, voter information materials should be posted at the polling stations' locations and polling booths should be available in all polling stations. Consideration should be given, at federal, cantonal, and community levels, to further electoral education efforts.

The early closing hour may have an effect on the turnout, as in some of the polling stations observed by the OSCE/ODIHR EAM, voters were showing up in rather large numbers towards the closing of the stations.

During election day polling, some communes have a mid-vote pickup of received ballots to begin the count before the close of polls.

At the close of polls, the Chairperson counts the number of the retained registration cards and closes the polling station. This is a quick exercise, and it can be carried out in 10 minutes. Without any handover documents, commune employees pick-up and transport the polling materials to the respective communal counting center, where the

ballot box will be opened and ballots counted to reconcile with the polling station committee's protocol on turnout.

Consideration could be given to introduce a handover document for the transport of elections materials from the polling station to the counting center.

C. OUT OF COUNTRY VOTING

Swiss citizens who have no residence in Switzerland, and are registered with a Swiss consulate abroad, can register on the voter list in their commune of origin or a commune in which they have lived in the past. They can vote by mail, or cast their ballot in person.

Before each election, the Swiss Ministry for Foreign Affairs calls upon its consulates to inform the Swiss living abroad about the forthcoming election. According to Swiss Foreign Ministry data from 31 December 2006, at that time 645,010 Swiss people were living abroad, out of which 111,249 (17.2 per cent) were registered to vote and 44 were candidates for parliament, 27 more than in 2003. None of them were elected, however. In 2004, the Council of the Swiss Abroad (CSA) formed the Parliamentary group "Swiss Abroad", with then 80 members coming from different political parties.

The Council of States elections are regulated by the cantonal laws. As such, only ten out of 26 cantons grant the right to vote for these elections for their registered citizens living abroad: Berne, Basel Land, Fribourg, Geneva, Jura, Neuchatel, Solothurn, Schwyz, Ticino and Zurich.

The communes mail the postal ballots to the Swiss registered voters living abroad using the regular mail by the federal deadline of ten days prior to election day. Swiss consulates are not involved either in the delivery or recovery of the ballots.

The Swiss Abroad organization supports the consideration of internet voting for Swiss citizens living abroad and most political parties appear to support that concept, which is now offered by some communes in local elections. Thus far the election authorities have proceeded cautiously on this issue, recognizing that while internet voting may increase the access of voters to the voting process, it could also pose a risk factor to the integrity of elections, and should only be considered based on broad consultations and consensus.

The ten day deadline has the potential to disfranchise the Swiss voters living abroad, as they depend on the respective postal system in their country of residence to receive the ballots in time. A longer period could be beneficial and possibly increase the turnout of this category of Swiss citizens. A solution could be to consider other methods and voting channels which may include the Swiss consulates to be involved in a swift delivery of ballots back to Switzerland.

XI. COUNTING AND TABULATION

The counting and tabulation process of the Swiss federal elections is a very complex one, due to the nature of the electoral system. The options available to electors as to how to mark their ballot papers give electoral administrators a daunting task in

organising, counting, double checking and collating the results. This process is very labour-intensive, and involves many workers.

Also, it is a very diverse process, as it may take different forms throughout the cantons and their communes. Votes for parties are counted separately from votes for individual candidates. A description of the allocation process can be found in Chapter IV (Legislative Framework).

In the areas of OSCE/ODIHR EAM deployment, the counting and tabulation process for the 2007 federal elections appeared to have been completed in an efficient manner. In spite of no formal political party or candidate observation of the process, or domestic non-partisan observer effort, all OSCE/ODIHR EAM's interlocutors expressed their full confidence and trust in the election results.

At the close of polls, the polling station committee completes its tasks; communal employees deliver the sealed polling materials to the respective communal counting center. Here the ballots are counted and tabulated, and the results sent to the cantonal level by email, fax or telephone, usually within the same day, and made public in the communal gazette; the vote count protocols and the cast ballots are delivered to the canton as soon as the communal counting is finished.

A commune can be divided in districts, by neighborhoods, mainly for splitting of counting and batching purposes. In some communes, the counting takes place in two major steps: counting of ballots, followed by the counting of votes by candidate. Ballots are separated by National Council and Council of States. The ballots cast in person are counted to reconcile with the polling station protocol on retained registration cards (the figures can vary by election). Council of States ballots may be put aside and will be counted only after the National Council counting is finished. Some communes, however, have separate teams that count both set of ballots simultaneously.

The communal counting starts with the mailed envelopes. In some larger communes, it was noted that the counting can start even before the election day with the counting of the postal votes. However, no results are made public until after the close of polls. Throughout the postal voting period, the received envelopes are opened at the Communal Building where they are checked for validity, but without opening the secrecy envelope. At this stage of the process, the reasons for invalidating a postal ballot are: registration card is not signed; registration card is missing; number of registration card differs from the number on the postal envelope; lack of secrecy envelope; ballots are outside the secrecy envelope; a name is written on the secrecy envelope; the registration card is inside the secrecy envelope (in the last two cases the secrecy envelope will not be open when counting, in order to protect the voters' secrecy of choice). If time permits, these voters will be contacted to correct their error by re-sending another postal vote. If valid, the secrecy envelopes are securely stored and sent to the Communal Counting Center in the morning when the counting normally starts. The late arrivals are opened directly at the Counting Centre.

Each commune decides which counting and tabulation software it is using, if any; also it may use different software for each election. Some cantons provide guidance on this issue, including recommending which software to use. Votes from each ballot paper where a voter cross through and/or write in candidate names and number are entered into the software program in a slow and precise manner. In Bern, because there were 26

to be elected, many ballot papers had 26 entries to make into the system for each ballot. This was usually completed by teams of two people, one reading the ballot and the other entering the ballot. After each ballot was entered, the numbers were often double checked.

Based on the electronic information, each canton aggregates the results from its communes, together with the results for the out of country voters, when applicable. Usually this happens within the same day; the cantonal preliminary results, along with the notice on the period and possibility for complaints, are printed in the cantonal gazette, as soon as possible, but not later than eight days after the close of polls. The seats are allocated based on the commune's original paper counting protocols.

All cantons were able to collate the results and make them public in a very reasonable timeframe considering the complex voting system. This was often aided by specialized software systems and the wider resources of the cantonal governments. This swift reporting of results, using cantonal websites as well as the media, demonstrates the transparency of the system. The results are also published at communal level, providing further transparency.

The cantons send the preliminary results to the federal level, in the form of unsigned counting protocols, as soon as possible. The actual signed protocols are sent along with the ballots and any complaint, not later than 10 days after the end of the complaints' period. The Federal Gazette publicized the final elections results, however, the final preliminary federal results are known by the end of the election day.

The tabulation and counting were completed in an exceptionally professional and expedited manner.

Some of the computers used to enter the counting results are connected to internet, thus raising the possibility for e-fraud. Computers storing the databases should be disconnected from the internet throughout the process.

Some communes use their own software to count the ballots; others buy such programs from private vendors, who have full access to such software during the counting process. It is not implicit where and if the software was tested and, if so, against what standards. There is no ethical prohibition against a vendor of election software contributing and participating on behalf of a party or candidate. Some elections are counted through sophisticated programs; others are counted by hand (even within the same commune).

A more systematic approach to counting could lead to more linear and consistent procedures, through the sharing of best practices, between the communes of the same canton, as well as between the cantons. In addition, consideration should be given to the setting of standards for the use of election software, and perhaps ethical rules for private companies who are actively involved in the writing of programs and counting of votes from such software.

The 2007 election resulted in 12 political parties represented in the new National Council and 5 in the Council of State. Five main parties obtained 88.3 per cent of the total votes cast for the National Council including the Swiss People's Party (SVP/UDC), the Socialist Democratic Party (SPS/PS), the Radical Free Democratic

Party (FDP/PRC), the Christian Democratic Party (CVP/PDC) and the Green Party (GSP/PES). These parties contested the election together with several other parties, some nationally represented and some of whom present only in one or just a few cantons. More than 3,000 candidates contested the election for the National Council, and more than 130 for the Council of State respectively.

XII. COMPLAINTS AND APPEALS

Complaints against voter registration issues and the conduct of the elections to the federal council can be lodged with the cantonal governments (art.77 Federal Act). They must be lodged within three days after the grounds for the complaint have become known. The deadline for any complaint expires three days after the results have been published in the official gazette of a canton. The cantonal government decides on complaints within ten days. It rejects complaints without further review, if by their nature they do not have the potential to impact on the “main result” of the elections. Appeals against rejections of complaints by the cantonal governments can be lodged with the Federal Court (art. 80 Federal Act).

According to information by the Federal Chancellery three complaints were raised after these elections, all lodged with cantonal offices. Two cases⁴⁴ were appealed to the Federal Court, which rejected both. The case which was not appealed to the Court concerned allegations that election procedures were not managed according to the law in a commune in the canton of Wallis/Valais. The canton’s council of state investigated the case and confirmed that the law was not followed in some cases. It determined that the problems could have affected at maximum 26 votes (related to duplicate voter cards; possible voting by four persons which were legally incapacitated; acceptance of five mailed ballots which were sent without stamps). The canton calculated that theoretically a minimum of 3,696 votes could have changed the result of the elections and thus rejected the complaint in line with the election law. According to law the complaint was cost-free for the complainant.

The National Council constitutes itself on the seventh Monday after the elections. The Council confirms the validity of its elections with at least a majority of its members (article 53 Federal Act). If there are doubts about the validity of the election of a given candidate, he/she has no vote. The procedure is regulated in more detail in the National Council’s rules of procedure of 2003 (Geschäftsreglement/règlement).

⁴⁴ One concerned a misprinted ballot paper, which had one line to many to be filled by voters. The canton had informed the public about this. The other case concerned a small, newly-registered party, which was not offered to present its platform in the official voter information booklet, because the founder of the party was still member of another party. While the party recognized the reasons for not being presented in the booklet, a voter complained and after rejection of the complaint appealed to the Federal court, which rejected the appeal.

ANNEX: 21 OCTOBER 2007 SWISS FEDERAL ELECTIONS RESULTS

National Council / year	2003	2007	+/-
Number of candidates	2836	3089	253
Number of male candidates	1843	2001	158
% of male candidates	64.99	64.78	-0.21
Number of female candidates	993	1088	95
% of female candidates	35.01	35.22	0.21
Number of candidatures from Swiss living abroad	17	44	27
Number of lists	262	311	49
Number of combined lists	67	70	3
Number of sub-lists	39	67	28

National Council statistics*	2007	in %	2003	in %
Registered Electors	4,913,442		4,781,887	
Voters	2,400,373	48.9%	2,161,921	45.2%
MPs newly elected	53	26.5%	59	29.50%
MPs not re-elected	22	11.50%	23	11.50%
Women	57	29.50%	50	25.00%
Average age – years	51.3		51.6	
Youngest MP - years	25.1		25.5	
Oldest MP - years	76.2		69.2	

National Council - results by party	Abbr.	2003		2007			
		% of votes	seats	% of votes	+/-	seats	+/-
Swiss People's Party	SVP/UDC	26.6	55	29	2.4	62	7
Social Democratic Party of Switzerland	SPS/PS	23.3	52	19.5	-3.8	43	-9
Free Democratic Party of Switzerland	FDP/PRD	17.3	36	15.6	-1.7	31	-5
Christian Democratic People's Party of Switzerland	CVP/PDC/PPD	14.4	28	14.6	0.2	31	3
Green Party of Switzerland	GPS/PES	7.4	13	9.6	2.2	20	7
Liberal Party of Switzerland	LPS/PLS	2.2	4	1.8	-0.4	4	0
Evangelical People's Party	EVP/PEV	2.3	3	2.4	0.1	2	-1
Green Liberal Party of Switzerland	GLP/PEL	0	0	1.4	1.4	3	3
Christian Social Party	CSP/PCS	0.4	1	0.4	0	1	0
Swiss Labour Party	PdA/PST	0.7	2	0.7	0	1	-1

Federal Democratic Union	EDU/UDF	1.3	2	1.3	0	1	-1
Ticino League	LdT	0.4	1	0.6	0.2	1	0
Alternative List	ASV	0.5	1	0.2	-0.3	0	-1
Swiss Democrats	SD/DS	1	1	0.5	-0.5	0	-1
solidaritéS	Sol	0.5	1	0.4	-0.1	0	-1
Freedom Party of Switzerland	FPS/PSL	0.2	0	0.1	-0.1	0	0
Others		1.6	0	1.8	0.2	0	0
			200				200

Council of States - results by party 2007	Abbr.	2003	2007	
		Seats	Seats	+/-
Christian Democratic People's Party of Switzerland	CVP/PDC/PPD	15	15	
Free Democratic Party of Switzerland	FDP/PRD	14	12	-2
Swiss People's Party	SVP/UDC	8	7	-1
Social Democratic Party of Switzerland	SPS/PS	9	9	
Green Party of Switzerland	GPS/PES	0	2	+1
Zurich Liberal Green Party	GLP/PEL	0	1	+2
Total		46	46	

** This figure does not include the Nidwald Canton, where the only running candidate for the National Council was elected through silent vote.*

ABOUT THE OSCE/ODIHR

The Office for Democratic Institutions and Human Rights (ODIHR) is the OSCE's principal institution to assist participating States "to ensure full respect for human rights and fundamental freedoms, to abide by the rule of law, to promote principles of democracy and (...) to build, strengthen and protect democratic institutions, as well as promote tolerance throughout society" (1992 Helsinki Document).

The ODIHR, based in Warsaw, Poland, was created as the Office for Free Elections at the 1990 Paris Summit and started operating in May 1991. One year later, the name of the Office was changed to reflect an expanded mandate to include human rights and democratization. Today it employs over 100 staff.

The ODIHR is the lead agency in Europe in the field of **election observation**. It coordinates and organizes the deployment of thousands of observers every year to assess whether elections in the OSCE area are in line with national legislation and international standards. Its unique methodology provides an in-depth insight into all elements of an electoral process. Through assistance projects, the ODIHR helps participating States to improve their electoral framework.

The Office's **democratization** activities include the following thematic areas: rule of law, legislative support, democratic governance, migration and freedom of movement, and gender equality. The ODIHR implements a number of targeted assistance programmes annually, seeking both to facilitate and enhance State compliance with OSCE commitments and to develop democratic structures.

The ODIHR monitors participating States' compliance with OSCE human dimension commitments, and assists with improving the protection of **human rights**. It also organizes several meetings every year to review the implementation of OSCE human dimension commitments by participating States.

Within the field of **tolerance** and **non-discrimination**, the ODIHR provides support to the participating States in implementing their OSCE commitments and in strengthening their response to hate crimes and incidents of racism, xenophobia, anti-Semitism and other forms of intolerance. The ODIHR's activities related to tolerance and non-discrimination are focused on the following areas: legislation; law enforcement training; monitoring, reporting on, and following up on responses to hate-motivated crimes and incidents; as well as educational activities to promote tolerance, respect, and mutual understanding.

The ODIHR provides advice to participating States on their policies on **Roma and Sinti**. It promotes capacity-building and networking among Roma and Sinti communities, and encourages the participation of Roma and Sinti representatives in policy-making bodies. The Office also acts as a clearing-house for the exchange of information on Roma and Sinti issues among national and international actors. All ODIHR activities are carried out in close co-ordination and co-operation with OSCE participating States, OSCE institutions and field operations, as well as with other international organizations.

More information is available on the ODIHR website (www.osce.org/odihr).