

## PART 1

# Basing democratic institutions on human rights and the rule of law for greater participation and accountability



While much of the year was overshadowed with the COVID-19 pandemic, 2020 saw the OSCE's participating States mark 30 years of the landmark 1990 Copenhagen Document, which contains key OSCE commitments for human rights and democracy, including free elections and the rule of law. Despite the many challenges to its work, ODIHR was able to provide advice and expertise to strengthen the democratic institutions and processes central to governments' responsibilities to their people, especially in times of crisis.

Across the OSCE, elections continued to be held, courts continued to rule and laws continued to be made, despite, and often in response to, health risks. ODIHR increased its efforts to support states in upholding democratic standards following the introduction of emergency measures, suggesting ways to ensure our democracies could continue to function.

The following impact stories illustrate the many ways in which ODIHR assisted OSCE participating States in upholding their long-standing commitments to guarantee accountable parliaments, an independent judiciary, and genuine democratic elections through 2020 and the pandemic.



## 1.1 Continuing election observation through the COVID-19 pandemic

### ODIHR Election observation activities in 2020

<b>Azerbaijan</b>	Early Parliamentary	9 February
<b>Slovakia</b>	Parliamentary	29 February**
<b>Tajikistan</b>	Parliamentary	1 March **
<b>Serbia</b>	Parliamentary	21 June**
<b>Croatia</b>	Parliamentary	5 July**
<b>North Macedonia</b>	Early parliamentary	15 July**
<b>Poland</b>	Presidential	28 June, 12 July**
<b>Montenegro</b>	Parliamentary	30 August*
<b>Kyrgyzstan</b>	Parliamentary	4 October*
<b>Lithuania</b>	Parliamentary	11 October**
<b>Tajikistan</b>	Presidential	11 October**
<b>Ukraine</b>	Local	25 October*
<b>Georgia</b>	Parliamentary	31 October*
<b>Moldova</b>	Presidential	1 November*
<b>United States</b>	General	3 November*
<b>Romania</b>	Parliamentary	6 December**

The mission to Azerbaijan prior to the pandemic was a full-scale election observation mission comprised of a core team of experts, long-term observers and short-term observers.

\* A limited election observation mission comprised of a core team of experts and long-term observers.

\*\* Either an election assessment mission or an election expert team comprised only of a core team of experts.

### ODIHR has deployed more than 380 election observation missions to almost all OSCE participating States.

Missions range in size depending on the needs of the given state, and are complex undertakings that sometimes involve hundreds of observers to reach the furthestmost corners of a voting country. In the course of 2020, the COVID-19 pandemic presented numerous security, safety and logistical challenges, but elections continued to take place. So too did ODIHR's election observation.

In March, the Office temporarily suspended its election observation activities due to travel restrictions and health concerns throughout the OSCE region. However, by May ODIHR deployed new missions, albeit in smaller formats than envisaged, becoming the first organization worldwide to resume election observation despite COVID-19. In the course of 2020, ODIHR deployed a total of 16 election observation and assessment missions to a wide range of countries, including Azerbaijan, Georgia, Kyrgyzstan, Moldova, North Macedonia, Serbia, Ukraine and the United States. While ODIHR began by sending smaller "Special Election Assessment Missions" as the COVID-19 pandemic unfolded, the Office soon began to deploy longer and larger missions. OSCE participating States restarted seconding long-term observers, which was appreciated by ODIHR given the logistical difficulties and health risks.

As elections in the context of the COVID-19 pandemic were held, it became obvious that adaptations were necessary, including with regard to how states conducted election day processes. This reaffirmed the value of deploying short-term observers to follow the process on election day. Regrettably, sending large numbers of short-term observers in 2020 was an insurmountable challenge for the OSCE participating States, just as organizing their work with due safety precautions was for ODIHR.

Despite the scaled-down format of missions in 2020, ODIHR was able to arrive at accurate and objective assessments of many aspects of elections and formulate recommendations to assist the OSCE participating States. While it is important that ODIHR is able to deploy larger numbers of short-term observers again to gather statistically meaningful data on election day proceedings, the Office remains at the forefront of election observation worldwide, reaffirming its leading role in election observation methodology and organizational capacity.

The fact that ODIHR was able to continue providing rigorous, accurate, and objective assessments of elections during these challenging times demonstrated the Office's resilience and ongoing commitment to fulfil its mandate.

— ODIHR Director Ingibjörg Sólrún Gísladóttir (2017 – July 2020) and Head of the 2020 LEOM to the local elections in Ukraine

In spite of the COVID-19 pandemic, voting was well organized in Moldova's presidential election, 1 November 2020.



OSCE/Vladimir Misev



## 1.2 Supporting parliaments during the COVID-19 pandemic

**Parliaments around the OSCE region faced a number of challenges due to the pandemic.** However, as governments have declared emergencies or introduced legislation in response to the health, economic, social and financial implications of the pandemic, it has become ever more vital for parliaments to continue their core functions: representation, exercising legislative power and scrutinizing government actions. To provide support to OSCE participating States in ensuring that parliaments could continue their work, ODIHR assisted national parliaments by organizing dedicated roundtables and thematic research, offering insight and good practices to work effectively during times of disruption, especially focusing on the use of new technologies.

In 2020, ODIHR organized three roundtable discussions with members of parliament, parliamentary staff and civil society organizations to explore good practices from across the OSCE and discuss the positive impact technological solutions can have on the work of national parliaments. The focus of these roundtables was specifically on how

communication technologies can be used more sustainably in the future by national parliaments to allow them to carry out their core representative, legislative and oversight functions in line with OSCE commitments, even in times of emergency. Participants in the roundtables came from more than 20 states, and the widespread interest led ODIHR to undertake research on this topic that will produce a study on parliaments and new technologies. In this way, ODIHR will continue to develop and improve its assistance to parliaments.

At a time when information exchange became slower and more difficult, ODIHR's roundtables helped parliaments around the OSCE region move forward on the use of new technologies, not just for internal purposes but to increase public transparency and effectiveness.

Bulgaria, Sofia, March 20, 2020:  
Bulgarian Members of Parliament  
wearing surgical masks while debating  
coronavirus measurements

These discussions were a great platform for exchange between MPs and parliamentary staff. I appreciated the opportunity to share our newly developed digital platform with other parliaments, and at the same time to learn from other MPs and parliaments about their concrete work in this difficult year.

— Inese Voika, a member of Latvian Parliament



## 1.3 Providing good practices in alternative voting methods

**In 2020, the COVID-19 global health crisis raised numerous challenges for election-day procedures and elections more generally, both legal and practical.** A number of OSCE participating States opted to postpone elections during declared states of emergency or out of health and safety considerations. However, some participating States held elections on schedule, as legal (and often constitutional) obligations to hold periodic elections do not foresee postponements. For all participating States, though, questions emerged about adjustments to voting methods and the arrangements that could reasonably be put in place to enable the conduct of elections, to both safeguard all involved and ensure compliance with applicable international obligations, standards and good practice for democratic elections.

The introduction of alternative voting practices and methods, whether in response to the ongoing pandemic or for other reasons, requires careful consideration. They need to be assessed not only in terms of their ability to alleviate public health threats, but also for feasibility, effectiveness and compatibility with

international standards for democratic elections. The ongoing public debate on this issue emphasizes the need to find the right balance between the commitment to hold elections to ensure compliance with the principle of periodicity on the one hand, and the ability to guarantee adherence to other key commitments, including secrecy and universality, as well as equality of suffrage and of electoral competition, on the other.

A study released by ODIHR in October covers the potential benefits and risks of conducting elections using methods and arrangements alternative to the predominant practice of voting in polling stations over the course of a single election day. With this study, ODIHR provides policymakers and the general public the information needed for a broad public discussion about alternative voting methods and arrangements, including in the context of the COVID-19 pandemic. The study provides a review of various voting methods and arrangements that depart from the traditional paper-based, single-day format and analyses them from the perspective of applicable international standards and good practice.

This study provides much needed analysis for deliberations that will impact the conduct of the elections, even after the pandemic. ODIHR's expert products, while prompted by specific context and developments, will provide long lasting guidance as we work to reimagine how we vote in Georgia.

— Tamat Zhvania, Chairperson of the Central Election Commission of Georgia.



A sign in Delaware, Ohio, directs voters with exposure to COVID-19 to a roadside voting stand on election day, 3 November 2020.

To facilitate a critical and comprehensive evaluation of the available options, the paper identifies both the benefits and possible pitfalls associated with the different solutions and offers guiding questions and considerations to help design responses that take account of potential risks.

The elections held around the OSCE region in 2020 highlighted the importance of well-considered election-day procedures, with multiple risk factors becoming more visible as innovations

were introduced and adjustments were made. ODIHR's study was presented at a number of occasions, including to the Electoral Management Bodies of Europe and the community of international election observers. At ODIHR's 2020 Annual Election Seminar, the topic was focused on specifically in a session at which representatives of the Russian Federation and the United States of America shared their experiences in applying these methods, prompting a technical expert dialogue among the OSCE participating States.



## 1.4 Assisting courts to negotiate the COVID-19 pandemic

**In difficult times, the judiciary needs to remain operative in order to serve as guardian of the rule of law and fundamental rights.** Courts play a crucial role in ensuring judicial scrutiny of emergency legislation and providing an effective remedy against excessive emergency measures in individual cases. Individuals also need access to courts in order to sort out urgent legal matters. The COVID-19 pandemic led to significant challenges for the rule of law in many OSCE participating States, including challenges for courts to operate under states of emergencies, curfews and lockdowns. In most states, courts were partially or fully closed for a period, and the majority of court procedures, except for urgent cases, were suspended. Judges struggled as there was little guidance available on how to operate remotely. Those who decided to work in-person on urgent cases faced health risks, as courtrooms often did not allow for sufficient distancing. Overall, individuals from across the OSCE region faced difficulties accessing justice in civil, criminal and administrative procedures.

The shift to working online in order to comply with rules on physical distancing also led to additional obstacles to the right to a fair trial. One concern was the lack of clear and foreseeable rules or legislation on the conduct of remote hearings in order to guarantee fair trial rights. Other challenges included the lack of meaningful participation during online hearings, problems with identifying parties, the examination of evidence, and the lack of means for confidential communication between client and lawyer during online hearings. It is important that trials are public, as this ensures transparency and builds trust in the judiciary. However, 2020 saw substantial limitations on the right to a public hearing throughout the OSCE region due both to the limited number of people able to connect to remote proceedings, and the even more limited number allowed to enter courtrooms. This in turn affected the transparency and the ability of trial monitors and the media to observe the process.

ODIHR's report on the functioning of courts is truly useful for judiciaries at this moment in time. To begin with, it is the first to collect, with detail and insight, the reaction of courts across the OSCE to the pandemic; it confronts the breaches of international standards and best practices; and it provides concrete guidance to practitioners in these times of indecision and confusion.

— José Matos, *President of the European Judges Association, Vice-President of International Judges Association*

ODIHR was among the first international organizations to establish an online platform for dialogue specifically relating to the challenges faced by courts and legal practitioners at the beginning of the COVID-19 restrictions. This platform allowed constructive conversations to take place between judges, prosecutors, and attorneys and international and regional organizations such as the Office of the United Nations High Commissioner for Human Rights, Council of Europe, national and international NGOs, including the International and European Association of Judges, the American Bar Association, the CEELI Institute and Fair Trials. The consultations allowed a timely exchange of information on challenges and potential solutions related to the functioning of courts. One conclusion was that judicial self-governing bodies and Ministries of Justice need to provide courts with clear guidance on when to conduct in-person or remote hearings and what safety and health-related measures to take. Another was that judges need to be offered sufficient flexibility to decide whether or not to schedule remote hearings when the right to a fair trial might be at risk.

In April 2020, ODIHR initiated an extensive mapping process to assess the various difficulties courts faced in continuing their work, collecting good practices and identifying possible solutions. This included the organization of a series of three webinars and four thematic consultation meetings. The meetings convened experienced practitioners from within the judiciary, representatives of international and regional partner organisations, civil society and OSCE field operations. Based on these discussions, ODIHR was able to collect and formulate concrete recommendations and solutions for courts across the region, which were captured in the overarching [ODIHR report on state responses to the COVID-19 pandemic](#) published in July and in a more detailed report on the [functioning of courts](#) in November. The latter focuses on areas key to courts' operation, such as video conferencing, the health and safety of court personnel following the reopening of courts, prioritisation of cases and resource allocation, allocation of cases, and new types of cases that have arisen as a consequence of the pandemic.

Trials continued through the pandemic, often with proceedings taking place virtually.

**Your impressive primer does not only discuss all the challenges the judiciary and rule of law are facing in these unprecedented circumstances, but goes further, giving the reader an opportunity to study the problem from a wider angle and discern the issues that still lie beyond the horizon.**

— Duro Sessa, former President of the CCJE, Judge of Supreme Court Croatia



## 1.5 Assisting state institutions to protect human rights during the pandemic

**In the wake of the COVID-19 outbreak, governments introduced measures to contain the spread of the virus, making use of executive powers that often significantly restricted a number of human rights.** At the same time, in crisis situations, pre-existing patterns of discrimination, marginalization and vulnerability are exacerbated. Women and men, girls and boys have experienced the effects of the crisis itself, and of the extraordinary measures taken to counter it, in very different ways. People in situations of vulnerability became even more vulnerable and invisible due both to the public emergency and state responses.

Through the provision of tailored capacity-building support, policy advice and thematic analysis, ODIHR strengthened existing and forged new partnerships with international organizations, state institutions and civil society. The necessity of timely monitoring and assessment of human rights caused by sudden challenges proved to be crucial, as did effective multiagency and multidisciplinary co-operation. ODIHR's work on challenges to democracy in this

difficult year will thus serve as guidance in future emergencies.

In the course of 2020, ODIHR published a number of guides related to the COVID-19 pandemic that formed a major part of the Office's output during the year.

The pandemic exacerbated the risk of rights violations for people in prisons or otherwise deprived of liberty. Prison populations were at a greater risk of infection due to confinement in small spaces and overcrowding. At the same time, the pandemic meant that contact between prisoners and the outside world was even more limited than usual. National Preventive Mechanisms (NPMs), which monitor all places of deprivation of liberty as a key safeguard against torture and ill-treatment, faced numerous challenges in upholding their monitoring functions while unable to physically access places of deprivation of liberty.

For us, the Covid-19 pandemic demonstrated the importance of international partners to enable us to carry out our mandates. The speed with which the ODIHR and APT assisted us by developing a practical guide for monitoring during the pandemic was inspirational and a great help!

— Helga Fastrup Ervik, Norwegian Parliamentary Ombudsman





To help enable NPMs to continue monitoring, ODIHR and the Association for the Prevention of Torture (APT) developed [practical guidance](#) on monitoring places of detention during the pandemic, collecting promising practices from NPMs through webinars and online discussions. Seventy per cent of NPMs surveyed by ODIHR following the publication of the guidance found it to be very useful. ODIHR will continue to address the clear need and interest in further peer exchange on effective responses to the challenges posed by the pandemic to prison populations and detention monitoring.

ODIHR also quickly identified the need to support National Human Rights Institutions (NHRIs) during the pandemic. Consulting with over 40 NHRIs and co-operating with the European Network of National Human Rights Institutions (ENNHRI), ODIHR produced a [reference tool](#) for NHRIs on their role in a public emergency. The tool is a step-by-step guide to help NHRIs scrutinize measures imposed during states of emergency, assessing their legality, proportionality, necessity and non-discrimination. The

tool also provides specific recommendations for overseeing the work of security sector institutions in the enforcement of emergency regimes. A specific section was dedicated to the role of NHRIs in addressing gender-based violence, including domestic violence, during public emergencies. A number of NHRIs reported using the tool in their daily work, for example to identify groups in situations of greater vulnerability, leading to enhanced monitoring and communication with these groups.

Women were among those most affected by emergency restrictions, the majority of which were hastily put in place without any gender analysis. For example, restrictions to freedom of movement have affected an array of other rights for women, including the right to life, the right to physical integrity and the right to health. To improve state responses in the future, ODIHR carefully analysed the most common restrictions imposed during states of emergency from a gender perspective. The result can be found in ODIHR's subsequently released [guidance manual](#) for state institutions and civil society, which provides good practice

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**In these unprecedented times, we found ourselves in a position to rethink and reinvent our work and role. The ODIHR reference tool, which the Albanian NHRI has already translated, published and distributed, provides excellent guidance for us to better implement our mandates when we are most needed.**

— Erinda Ballanca, *The Albanian People's Advocate*

examples from 2020 as well as recommendations for future action. It examines both the immediate and long-term impact on different groups of women and the impact of discriminatory effects of measures imposed, including the effect on women who suffer discrimination on more than one ground. Promising practices to mitigate the negative impacts of emergency measures are included.

ODIHR supported participating States with [practical guidance](#) to implement a human rights-based, gender-sensitive, trauma-informed and victim-centred approach to combatting trafficking in human beings. As with many other human rights, COVID-19 created new risks and challenges to victims and survivors of trafficking, exacerbated the vulnerabilities of groups at risk of becoming victims of trafficking, and at the same time hampered an effective response. Identification of victims, survivors' access to assistance and services, protection, redress, reintegration and overall prevention efforts were all affected. Frontline organizations also experienced significant challenges in their activities during the pandemic.

To analyze emerging trends and dynamics and to develop a response based on empirical data, ODIHR and UN Women conducted a global survey of survivors of trafficking and frontline stakeholders. Advised by a group of experts and based on survey findings collected from survivors of trafficking from 40 countries and frontline organizations from 102 countries, a set of policy recommendations were developed for participating States. The guidance has promoted targeted policy development and generated requests from several participating States for ODIHR to assist in developing protocols on combating trafficking in human beings during states of emergency. ODIHR also provided assistance to participating States in addressing the issue of protecting children in the digital environment, as COVID-19 significantly increased children's vulnerability to trafficking in online formats and other forms of exploitation.

## 1.6 Creating tools to better understand women's participation in political parties



**Political parties are the main entry point into politics and the gateway for women's engagement. I'm sure ODIHR's new tool will accelerate women's path to leadership and full participation by encouraging political parties to assess themselves and thus do the right thing for their party, for gender equality and for democracy.**

— Ambassador Melanne Verweir, OSCE Special Representative of the Chairperson-in-Office on Gender

**Women's political participation is a human rights issue, but also key to inclusive democracies, as well as safe and prosperous societies.**

The COVID-19 pandemic has particularly highlighted the importance of inclusive decision-making and leadership that can effectively respond to the needs and interests of diverse groups of people. The future of democracies depends on all democratic institutions, parliaments and political parties, recognizing their role in advancing gender equality and inclusion in their structures, decision-making and politics more broadly. ODIHR's work on women's participation in politics supports OSCE participating States to make this a reality.

To fulfil their role in representative democracy, political parties need to improve their gender equality and inclusion efforts. When parties adopt effective gender equality measures within their own structures, they demonstrably widen their support base, increase women's access to decision-making and contribute to inclusive politics, as well as better laws and policies for all. Engaging with political parties on advancing gender

issues facilitates women's access to candidate nominations and elected office, and can also benefit the parties themselves. Gender mainstreaming in political parties is therefore a win-win situation for all.

In 2020, ODIHR launched the [gender audit](#) for political parties website – an online self-assessment tool for political parties – to identify gaps and opportunities in their approach to gender equality. It encourages and enables political parties to identify both strengths and shortcomings in their gender equality approach. Depending on the results of the audit, specific activities are recommended and examples of good practices provided that parties can undertake to better mainstream gender equality in their structures, programmes and documents. This gender audit process can be used by party leaders and activists for

the development of gender action plans, to outline measures for institutionalizing gender equality and women's empowerment in the party and beyond.

To date, ODIHR and OSCE field operations have supported gender audits of 48 political parties in Armenia, Bosnia and Herzegovina, Finland, Georgia, Kazakhstan, Kyrgyzstan, Moldova and Tajikistan. The resulting reports and 400 recommendations are used by political parties to develop party gender action plans, important strategic documents to increase women's participation and sensitize internal policies and procedures. Examples from gender action plans include the establishment of local women's councils or the introduction of voluntary party quotas for women candidates. This assessment process can be carried out confidentially and online by political parties themselves.



ODIHR's new tool: [genderaudit.osce.org](https://genderaudit.osce.org)

## 1.7 Disseminating electoral recommendations online, throughout the OSCE

**All OSCE participating States have committed to promptly follow up on ODIHR election assessments and recommendations.** Observation recommendations provided by ODIHR seek to support OSCE states to overcome persistent electoral shortcomings and vulnerabilities in all the places in which the Office observes.

In 2020, ODIHR continued and concluded the implementation of a four-year project to support the Western Balkans to follow up on recommendations in areas related to election administration, voter registration and media coverage during election campaigns. A key activity of the project was to develop a public [database](#) of electoral recommendations. In 2020, ODIHR extended the database to include all 57 OSCE participating States. It now contains 2,645 recommendations from 115 election observation reports from 2014 onwards, as well as the status of their implementation.

The key feature of the database is the ability to explore and sort recommendations by participating State, year of the election, thematic area, type of change required, level of implementation and many other attributes or their combination. The information can subsequently be exported from the database. The database also includes accessibility features for people with visual impairments.

As the database is publicly available, all stakeholders can use it as a tool for assessing progress towards compliance with OSCE commitments and international standards for democratic elections. It serves as a useful co-ordination instrument to set priorities for domestic stakeholders, including civil society, and the international community working on electoral support.

Evaluation of the level of implementation of ODIHR's previous recommendations requires continuous technical and political dialogue. This dialogue with ODIHR has aided my country in improving our election processes.

— *Damian Gjikhuri, Member of the Albanian Parliament, Co-chair of the Ad-hoc Committee on electoral reform*



OSCE/Michael Forster Rothbart

Voters casting their ballots during the US general elections, 3 November 2020



## 1.8 Improving electoral processes in the Western Balkans

**In the last two decades, the Western Balkans region has made progress in adopting democratic norms and institutions, including with respect to the conduct of democratic elections.**

To support the region in efforts to follow up on election observation recommendations, ODIHR carried out a project to assist five OSCE participating States in the Western Balkans that concluded in 2020. It was co-financed by the European Union and the Austrian Development Agency and covered specific areas of election administration, voter registration and media coverage during election campaigns. This project allowed ODIHR to support existing reform mechanisms, involving civil society and other relevant stakeholders. A second phase will also cover election campaigns and campaign finance, as well as the resolution of election disputes. Election support was also provided to Kosovo.\*

The first three years of the project were aimed at helping beneficiaries conduct meaningful, inclusive and sustainable electoral reform. With this in mind, the project was structured around several

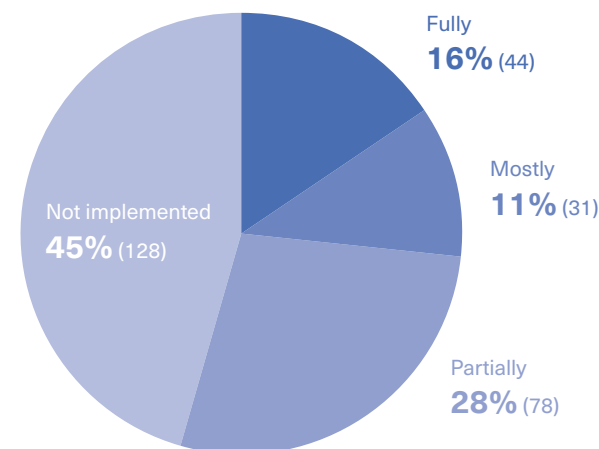
activities that complemented each other to creating maximum impact. ODIHR experts attended 52 thematic workshops, of which the Office co-organized 18. These workshops provided valuable opportunities for dialogue among electoral stakeholders at different stages of electoral reform. From a workshop in North Macedonia on best practices for reform to joint events with OSCE field operations focusing on election administration and media coverage of elections, ODIHR has shaped discussions on improving elections across the Western Balkans. A total of 80 visits were made and ODIHR prepared 57 papers on a wide range of thematic areas upon request of electoral stakeholders.

In 2020, ODIHR also provided in-depth expertise to the ongoing electoral reform discussions in all the region and continued to engage with authorities during the COVID-19 pandemic online. Mid-term visits to five out of six beneficiaries (one had to be cancelled due to COVID-19 travel restrictions) helped take stock of progress made and refocus energy on the tasks that still lay ahead.

I have appreciated ODIHR bringing attention to the participation of people with disabilities, Roma and women in our elections over these three years. Our joint efforts are necessary to make sure that each recommendation for electoral reform is looked at through the eyes of all members of our society.

— Blagica Dimitrovska, President of the Association for promotion and development of an inclusive society INKLUZIVA

**Implementation of electoral recommendations as part of ODIHR's project, at the end of 2020**



\* There is no consensus among OSCE participating States on the status of Kosovo and, as such, the Organization does not have a position on this issue. All references to Kosovo, whether to the territory, institutions or population, in this text should be understood in full compliance with United Nations Security Council Resolution 1244.

Over the course of the project, the legal frameworks for elections were amended, to different extents, in the beneficiaries. Following in-depth expertise and comments from ODIHR, new electoral codes were adopted or amended in Albania and North Macedonia, and a number of relevant laws and regulations were amended or tabled in the parliaments of Bosnia and Herzegovina, Montenegro and Serbia.

Out of the 836 recommendations from 34 final reports of election observation activities in this region, 475 were in the thematic areas that were part of the project. Of these, 281 were evaluated by the end of the project and 153 recommendations (54 per cent of the evaluated) were implemented to a certain extent.

The project offered key lessons both for the region and the broader OSCE region. In the course of its recent election observation activities there, ODIHR has noted varied degrees of implementation of OSCE commitments and other standards for democratic elections, and political will is therefore essential for the results of electoral follow-up to become established and remain in place in the longer term. In addition, for reform to be sustainable, it needs to reflect the needs of all members of a society and be based on a broad consultation process. Here, the unifying role of civil society cannot be overestimated as a partner for ODIHR's follow-up activities.



Voting near Podgorica during the parliamentary elections in Montenegro on 30 August 2020.

## 1.9 Making law-making processes more open, inclusive and consultative

**ODIHR's legislative assistance focuses on supporting OSCE participating States in legal reform efforts to ensure that their legislation is in line with international standards and human dimension commitments, as well as providing assistance in improving law-making processes.**

Generally, poorly drafted and non-human rights compliant legislation is often a result of a deficient legislative process, lacking openness, consultation and inclusiveness. These shortcomings have often been further exacerbated during the COVID-19 pandemic, when authorities were often inclined to circumvent normal legislative processes, adopting laws over-hastily, avoiding meaningful discussion and public consultation.

In 2020, ODIHR received 27 requests and published 22 legal reviews (see full list in annex), some of which had an immediate substantive impact on the content of draft legislation or the direction of legal reform. ODIHR's reviews often triggered further in-depth public debate about legislative initiatives. The Office also provided ad hoc legal advice on six pieces of legislation to OSCE field operations

on issues ranging from combatting extremism, through freedom of peaceful assembly and religious attire in the armed forces, to anti-corruption and parliamentary rules of procedure.

ODIHR's urgent opinion on amendments to a corruption act in Slovenia facilitated the adoption of the reform, which equipped the authorities with crucial tools, means and resources vital for the prevention of and fight against corruption. In Poland, ODIHR's input contributed to a widespread public debate about safeguards for the independence and continuity of office of the Commissioner for Human Rights. In 2020, ODIHR continued to support the reform of political party legislation in Armenia, providing a legal opinion, as well as organizing and participating in public discussions. In December, the National Assembly of Armenia adopted the new Constitutional Law on Political Parties, which could help further establish political pluralism in line with international standards on political party regulation.

All ODIHR legal reviews seek to integrate a gender and diversity perspective, by providing concrete recommendations

to ensure greater inclusiveness in democratic institutions and by analysing the potential different impact of the contemplated legal reform on women and men, as well as under-represented groups.

In 2020, ODIHR's legislative assistance culminated in the adoption of the second edition of the Joint ODIHR-Venice Commission Guidelines on Political Party Regulation, which provides a comprehensive and hands-on toolkit to assist lawmakers in drafting human rights-compliant legislation on political parties. These guidelines update and expand the themes of the first edition, highlighting new developments and upcoming issues in the area of political party regulation. Specifically, the guidelines include recommendations on gender, diversity and equal treatment by political parties as part of their internal functioning but also in the context of elections. It is hoped that like the first edition, this new edition of the Guidelines will be cited as a key reference and standard-setting document by international and regional organizations or jurisdictions, such as the European Court of Human Rights, the OECD and the United Nations.



**In my capacity as the Commissioner for Human Rights of Poland, I would like to express my gratitude to ODIHR for its timely legislative support. Its input was extremely important for the implementation of my mandate and an invaluable instrument in strengthening the role of the Commissioner to effectively protect fundamental human rights and freedoms as envisaged by our constitution.**

— Adam Bodnar, Commissioner for Human Rights of Poland, speaking about the ODIHR Urgent Note on *International Standards and Comparative Practices Regarding the Continuation of Ombudspersons' Terms of Office Until the Appointment of a New Office-holder*, published in October 2020.