



Office for Democratic Institutions and Human Rights

# SWISS CONFEDERATION

## FEDERAL ASSEMBLY ELECTIONS 22 OCTOBER 2023

ODIHR Election Expert Team  
Final Report



Warsaw  
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**SWISS CONFEDERATION  
FEDERAL ASSEMBLY ELECTIONS  
22 October 2023**

**ODIHR Election Expert Team Final Report<sup>1</sup>**

**I. EXECUTIVE SUMMARY**

Following an invitation from the Swiss authorities and in accordance with its mandate, the OSCE Office for Democratic Institutions and Human Rights (ODIHR) deployed an Election Expert Team (EET) for the 22 October 2023 federal assembly elections. The ODIHR EET focused its assessment on party and campaign finance regulation and oversight, the internet voting trials and the accessibility of the electoral process for persons with disabilities. The ODIHR EET assessed compliance of these aspects of the electoral process with OSCE commitments, other international obligations and standards for democratic elections, as well as national legislation.

The elections were competitive and well organized, and voters were able to make an informed choice. The federal legal framework overall constitutes a sound basis for the conduct of democratic elections. While the newly introduced political party and campaign finance regulation enhanced transparency, some aspects warrant further attention, including the lack of donation and campaign spending limits, reporting requirements for expenditure and further regulation of lobbying and conflict of interests. In general, the redesigned internet voting system incorporates some transparency improvements and verifiability of the voting process, but some aspects related to management, supervision and auditing could be reviewed. Several measures enhanced the accessibility of the electoral process for persons with disabilities, yet the legislation falls short of fully aligning with international obligations and standards. The election process was administered efficiently and in line with the legal requirements despite some technical deficiencies pertaining to the tabulation and reporting of summary results at the central level.

The federal law sets general conditions and minimum standards for the National Council (NC) elections, while the cantons are responsible for detailed regulation. Regulation of the Council of States (CoS) elections and the overall administration of both contests are under exclusive cantonal purview. The electoral legal framework has remained largely unchanged since 2019 but the amendments that entered into force in 2022 introduced transparency regulations of political party and campaign financing. At the same time, important changes for internet voting trials were introduced in the secondary legislation. Some prior ODIHR recommendations remain outstanding, including those pertaining to additional safeguards for postal voting, the cantonal variations concerning the voting and candidate eligibility rights for the CoS elections and the rights of election observers.

The new campaign finance regulations introduced a ban on anonymous and foreign donations for the NC elections, reporting requirements for parties and campaigns with funds exceeding CHF 50,000 (approx. EUR 50,980) and disclosure of the identity of donors for donations over CHF 15,000. However, donors may channel money through party-affiliated associations and foundations, thus avoiding disclosure of their identities. For the CoS elections, the disclosure requirements apply only to elected MPs and anonymous donations are still permitted. These measures ensured minimum levels of transparency and constituted an important step in making parties more accountable. However, there are no limits on donations and expenditure and no reporting requirements for expenditure, at odds with international standards. The possibility of limitless donations from corporations, including from

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<sup>1</sup> The English version of this report is the only official document. An unofficial translation is available in German and French. See all previous ODIHR election reports on [Switzerland](#).

state-owned companies, could trigger their direct influence on political decision-making. Some ODIHR EET interlocutors stressed a need for additional regulation of lobbying and preventing conflict of interest of elected MPs.

In 2022, the federal regulations on internet voting were considerably revised, improving verifiability, security, quality control, risk assessment and mitigation. A new examination procedure allows for a comprehensive assessment of the cantons' voting systems and operations. Authorized internet voting trials were held in three cantons for these elections. Overall, the internet voting pilots were organised professionally and transparently and enjoyed public trust. Shortcomings related to internet voting pertain to election administration, the role of cantonal electoral boards, the involvement of some external contractors in key operations, and the need for provisions for international and citizen election observation.

The federal legislation provides several guarantees for the participation of persons with disabilities in the electoral process. However, it does not ensure their full and equal participation in all aspects of the elections in line with international obligations and standards. Persons deprived of legal capacity are disenfranchised, while the voting procedures are not accessible for independent voting for all persons with disabilities. Candidacy rights are undermined by a lack of financial, assistive or technological support for candidates with disabilities. Positively, the amount of accessible information in the media is gradually increasing. The Federal Chancellery produced a booklet on voting procedures and maintained an information website in easy-to-read language, yet the political information and voter education in plain and sign languages are insufficient. Campaign events were not fully accessible for voters with disabilities, the venues were not always barrier-free, and sign language interpretation was provided only in isolated cases.

The ODIHR EET, in line with the established methodology, did not conduct systematic election day monitoring, visiting only a few polling stations on election day. The Federal Chancellery is responsible for ensuring that the federal standards are adhered to. Voting by post is well established and was used by more than 90 per cent of the electorate. Three days after election day, the Federal Statistical Office announced a miscalculation of the summarized results due to trivial errors in data input from three cantons. As a result, the reported overall share of some parties was increased, but it did not affect the initially established seat allocation. Such errors illustrate the need for comprehensive testing and verification before the publication of the results.

This report offers a number of recommendations to support efforts to bring elections in the Swiss Confederation closer in line with OSCE commitments and other international obligations and standards for democratic elections. The recommendations focus on introducing donations and expenditures caps, disclosure requirements for expenditures, disclosure of donations from state-owned companies, campaign finance regulation for the Council of State elections, enabling the consolidation of parties' accounts on different levels and of all donations from a single source, allowing for international and citizen observation including for internet voting, mandating that cantonal election managers are directly in charge of all critical election functions for internet voting, amending legislation in line with the Convention on the Rights of Persons with Disabilities, and enabling voters with disabilities to independently acquire election-related information and providing them with accessible voter education materials. ODIHR stands ready to assist the authorities to further improve the electoral process and to address the recommendations contained in this and previous reports.

## II. INTRODUCTION AND ACKNOWLEDGMENTS

Following an invitation from the Swiss authorities and based on the recommendation of a Needs Assessment Mission (NAM) conducted from 11 to 13 July 2023, the OSCE Office for Democratic Institutions and Human Rights (ODIHR) deployed an Election Expert Team (EET) to observe the 22 October Federal Assembly elections. The ODIHR EET consisted of three experts drawn from three OSCE participating States.

The ODIHR EET focused its assessment on the regulation and practice related to political party and campaign finance, the accessibility of the electoral process for persons with disabilities and the use of information and communications technology in the elections, particularly internet voting. The report is thus limited in scope and does not offer assessment of the entire election process. Specific areas under review were assessed for compliance with OSCE commitments, other international obligations and standards for democratic elections, and national legislation. In line with the ODIHR's methodology, the EET did not undertake comprehensive and systematic observation of election-day procedures. This final report should be read in conjunction with the 2023 ODIHR NAM report and previous ODIHR reports, which provide additional detail on electoral processes in the Swiss Confederation.

The ODIHR EET wishes to thank the Federal Department of Foreign Affairs, the Federal Chancellery, the cantonal chancelleries, other federal and cantonal authorities, political parties, civil society and other interlocutors for their co-operation and assistance.

## III. BACKGROUND AND POLITICAL CONTEXT

Switzerland is a federal state with a parliamentary system of governance. Its three-tiered political system comprises federal authorities, 26 cantons, and 2,136 communes. The cantons hold considerable autonomy, each with its own constitution, legal system, legislature, chancellery, and judiciary. The institutions reflect a complex federal structure incorporating cantonal authority, linguistic diversity, and a long tradition of direct democracy through regularly held referenda and popular initiatives.<sup>2</sup>

Legislative authority at the federal level is vested in the Federal Assembly, which comprises the National Council (NC) and the Council of States (CoS). Both chambers are elected to serve four-year terms. The NC, with its 200 representatives, acts on behalf of the Swiss electorate, whereas the CoS, composed of 46 members, represents the cantons. Despite their different representational focus, both chambers possess coequal legislative powers. Following the October 2019 elections, eleven political parties were represented in the Federal Assembly, forming six parliamentary groups.<sup>3</sup>

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<sup>2</sup> All constitutional amendments approved by the Federal Assembly and the Swiss membership in international organisations are subject to mandatory referenda. Separately, popular initiatives which allow citizens to propose amendments to the Federal Constitution are held if the organizer collects at least 100,000 signatures within 18 months. Federal acts of Parliament can be subjected to optional referenda, held if at least 50,000 signatures are collected within 100 days of the law being passed. Swiss voters vote on referenda and popular initiatives up to four times a year.

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

Executive power is vested in the seven-member Federal Council, elected by the Federal Assembly.<sup>4</sup> As a long-established practice, the four parties with the largest representation in parliament are represented in the Federal Council proportionally to their parliamentary strength.<sup>5</sup> As a result, the political balance of power in the Federal Council remains stable.<sup>6</sup>

While there were three women among the seven members of both the outgoing and the newly elected Federal Council, women remain less represented in public office. There were 81 women in the outgoing NC (41 per cent), an increase compared to 64 (32 per cent) elected in 2015 and 13 in the CoS (29 per cent), and women comprise one-third of the cantonal parliament members.<sup>7</sup> Following these elections, the number of women MPs is 77 in the NC, marking a slight decrease, and 16 in the CoS (a slight increase). In its circular letter related to these elections, the Federal Council called the cantonal authorities to draw voters' and parties' attention to increasing women's participation in the elections.<sup>8</sup>

#### IV. LEGAL FRAMEWORK AND ELECTORAL SYSTEM

The Federal Assembly elections were primarily regulated by the 1999 Federal Constitution (last amended in 2022), the 1976 Federal Act on Political Rights (FAPR, last amended in 2022), and the 1978 Federal Ordinance on Political Rights (PoRO, last amended 2022), as well as corresponding legislation at the cantonal level. For the NC elections, the federal law sets general conditions, including on suffrage rights, candidate lists and distribution of mandates, while the cantons are responsible for adopting detailed regulations. The cantons have exclusive competence over the regulation of the CoS elections and the overall administration of the election process. The 2014 Swiss Abroad Act includes measures to support voting from abroad. Switzerland is a party to major international and regional instruments related to democratic elections.<sup>9</sup>

The 2022 changes to the election law for the first time, regulate party and campaign finance on the federal level. In addition, significant changes that affect the conduct of internet voting trials were introduced in the secondary legislation (see *Internet Voting*). Apart from these amendments, the electoral legal framework remained mostly unchanged.

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<sup>4</sup> The Federal Council is a collegial body and represents the country as a collective head of state, with its largely ceremonial presidency rotating annually among the seven members.

<sup>5</sup> By the agreed formula, first applied in 1959, the Council includes two members from each of the three largest parties and one from the fourth largest party.

<sup>6</sup> Both the outgoing and the newly elected Federal Council comprise two members from the Swiss People's Party, Social Democratic Party and FDP. The Liberals each, and one from the Centre Party.

<sup>7</sup> Of the three persons with disabilities elected to Parliament, all three are men. See the [Federal Statistical Office overview of women's representation in the National and cantonal assemblies](#).

<sup>8</sup> See Chapter 3 of the 19 October 2022 [circular letter](#) of the Federal Council to the cantonal governments on the elections to the National Council. See also the 2021 [Agreed Conclusions](#) of the 65th Session of the U.N. Economic and Social Council's Commission on the Status of Women, which invites the Member States to "encourage the implementation of measures and mechanisms, including appropriate mechanisms to track progress, to achieve the goal of 50/50 gender balance at all levels of elected positions".

<sup>9</sup> Including the 1966 International Covenant on Civil and Political Rights (ICCPR), 1979 Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), 1965 International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), 2003 Convention against Corruption (UNCAC), 2006 Convention on the Rights of Persons with Disabilities (CRPD), and the 1950 European Convention on Human Rights. Switzerland has not ratified the 1996 Optional Protocol to the ICCPR, the 2006 Optional Protocol on the CRPD and the 1990 International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families.

The electoral legal framework overall provides a solid basis for holding democratic elections for the Federal Assembly. The recent changes addressed some prior ODIHR recommendations, including enhancing the transparency of campaign finance and the accountability of internet voting. A number of prior ODIHR recommendations are yet to be addressed, including on reviewing the cantonal variations of suffrage rights for the CoS elections, introducing safeguards for postal voting and regulating the rights of election observers.

The 200 seats of the NC are allocated to the cantons in proportion to their resident population.<sup>10</sup> Each of the 26 cantons is a single constituency electing from 1 to 36 MPs. The elections are conducted under a proportional system, except in the cantons that return only one member, where a majoritarian system is used.<sup>11</sup> In the proportional races for the NC, voters choose among candidate lists put forward by political parties or any groups of citizens. Voters may vote for a list unaltered or modify it, reinforcing their vote for an already listed candidate, crossing out candidates on the selected list or adding candidates running on other lists. Voters may also compile their own lists consisting of candidates from different lists within the canton.

Most cantons elect a small number of mandates, resulting in a higher natural threshold to win seats, which could leave many votes without representation and provide an advantage to larger parties. To address this concern, the law provides for the possibility of different parties joining lists for the initial distribution of mandates, thereby increasing their chances of winning mandates. Individual parties have a practice of fielding multiple candidates' lists (sub-lists) within each canton, increasing their chances of winning mandates.<sup>12</sup> For these elections, the Federal Council clarified that different parties cannot enter into list sub-combinations with each other, but this change was not introduced by law.<sup>13</sup>

Elections to the CoS are conducted under majoritarian systems, except in the cantons of Jura and Neuchâtel, which use proportional representation. Twenty cantons elect two members each, and six cantons elect one member each. The first round was held together with NC elections, and when necessary, a second round took place in November on dates decided by the cantons.<sup>14</sup>

## V. PARTY AND CAMPAIGN FINANCE

### A. LEGAL FRAMEWORK

In 2022, legal amendments to the FAPR introduced, for the first time, federal regulation of party and campaign finance, further supplemented by a Federal Council decree.<sup>15</sup> The regulation applies primarily to the parties represented in the NC, the NC elections and federal popular votes. For the CoS elections, it is applicable only to the elected MPs. In addition, some cantons have legislation

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

<sup>11</sup> Art. 22.1 of the FAPR stipulates that each candidate list may contain as many candidates as the canton is entitled to elect to the NC.

<sup>12</sup> If a voter votes for a list that is a part of a combination, their vote increments the tally for the entire combination, therefore, for the given party. All candidate lists contesting elections in combination (e.g. fielded from the same political party) are noted on the ballots. Each sub-list within targets a different focus group, e.g. including women, men, youth, or geographical areas within a canton.

<sup>13</sup> See the [circular letter](#) of the Federal Council to the cantons and the [legal clarification](#) of the National Council's Political Affairs Committee. On 25 August, acting upon a complaint, the Federal Supreme Court confirmed the legal clarification by the election authorities.

<sup>14</sup> The CoS MP from the canton of Appenzell Innerrhoden was elected in April 2023. For the CoS elections, run-off contests took place in nine cantons. These cantons decided to hold the second round either on 12 or 19 November.

<sup>15</sup> See the [FAPR](#), the August 2022 [Decree on the Transparency of Political Finance](#).

applicable to the cantonal elections, which also applies to the CoS elections, as they are fully regulated and organized by the cantons.<sup>16</sup> The introduction of federal regulation to ensure minimum levels of transparency and accountability of political parties during the campaign and when represented in Parliament marks an important step in an effort to make parties more accountable and provide voters with informed choices.

The new federal regulation materialized as a legislative counter-proposal by the parliamentary parties to a popular initiative on transparency tabled in 2017, aiming to hold a popular vote which would obligate Parliament to regulate party and campaign finance.<sup>17</sup> The amendments to the FAPR were adopted in June 2021 following an inclusive public consultations process and came into force in October 2022.<sup>18</sup> The draft was amended despite the considerable opposition of some parties in the NC.<sup>19</sup> Following its adoption, the Federal Office of Justice was tasked with evaluating the regulation and proposing possible further amendments.<sup>20</sup>

The amendments on the transparency of funding introduced reporting requirements for parties represented in the Federal Assembly, independent MPs and other subjects organizing campaigns for federal elections and popular votes in case their campaign funds exceeded CHF 50,000. Groups of candidates campaigning together, all subjects running separate campaigns, including candidates or party organizations on communal, cantonal and national levels, must separately disclose their campaign finances.

The law also requires disclosure of the identities of donors for campaign donations exceeding CHF 15,000, in case the total campaign funds exceed CHF 50,000. Further, a Federal Council decision mandated the Swiss Federal Audit Office (SFAO) with the oversight, including publishing the information and auditing. At odds with international standards, there is no reporting requirement for expenditure, including for online campaigning.<sup>21</sup>

*Consideration should be given to amending the law to explicitly prescribe the body mandated with oversight of political finances and its competences.*

The new legislation addressed some long-standing recommendations of ODIHR and the Council of Europe's Group of States Against Corruption (GRECO), including on introducing disclosure of party

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<sup>16</sup> After 2013, the Cantons of Geneva, Fribourg, Neuchâtel, Schaffhausen, Schwyz, Ticino and Vaud adopted party and campaign finance legislation applicable to the cantonal elections, and popular votes. Jura and Valais have drafted legislation which has not been adopted yet.

<sup>17</sup> See the [information page](#) maintained by the Federal Office of Justice on transparency of political financing, and further information about the October 2017 popular initiative "For more transparency in the financing of political life".

<sup>18</sup> The [consultations](#) were initiated by the Political Institutions Committee of the Council of States (PIC-S) and took place from 7 May to 28 August 2019. A total of 46 opinions were submitted from the chancelleries of 26 cantons, 8 parties represented in the Federal Assembly and 12 other stakeholders. Of them, 26 were in favour of the draft amendments, including 14 cantons and five political parties (PBD, PEV, the Greens, PVL and PS); 18 opinions were against the draft, including from ten cantons and three political parties (PDC, PLR and UDC).

<sup>19</sup> On 16 December 2019, the CoS approved the draft law by 29 votes to 13, with two abstentions and several amendments. On 17 September 2020, the NC initially rejected the draft by 168 votes (both by those supporting stricter regulation and those opposing any regulation) to 18 with nine abstentions and sent it back to the CoS, which re-adopted it and sent it to the NC. On 3 March 2021, the NC adopted it by 113 votes to 78, with four amendments. A final vote to pass the law was held in June 2021.

<sup>20</sup> The evaluation will be conducted in the autumn of 2024.

<sup>21</sup> See articles 10 and 13 of the Council of Europe Committee of Ministers [Recommendation Rec \(2003\)4](#) on common rules against corruption in the funding of political parties and electoral campaigns (CM Recommendation (2003) 4) that calls the members states to consider publishing information on campaign expenditures. See the [2020 ODIHR and Venice Commission Guidelines on Political Party Regulation](#), which, *inter alia*, states that the campaigners' financial reports "should clearly distinguish between income and expenditures".



and campaign income and donations, banning anonymous and foreign donations, and introducing independent audit and oversight. However, other GRECO recommendations are yet to be addressed, including consolidating parties' accounts to include cantonal and local branches and bodies affiliated with them, extending the regulation to the CoS elections, disclosing expenditures and regulating donations from state-owned or controlled companies and public procurement contracts.<sup>22</sup> Despite the historic reluctance of several political parties to introduce any campaign finance regulation, all ODIHR EET interlocutors welcomed the current transparency efforts. Some noted that additional regulation of lobbying and preventing conflicts of interest due to undisclosed remuneration by interest groups would further enhance transparency and accountability.<sup>23</sup>

*The rules of transparency pertaining to the disclosure of the financial interests of elected mandate holders could be strengthened in line with international standards.*

## **B. INCOME AND EXPENDITURE**

Political parties and other campaigners do not receive direct public subsidies on the federal level.<sup>24</sup> While international good practice recommends public funding to enhance the independence of political actors, most ODIHR EET interlocutors noted that it is unnecessary due to a well-established tradition of private funding and relatively low-cost decentralised campaigns, which enable political parties to meet their funding needs.<sup>25</sup>

Parties and campaigns may receive donations from individuals and legal entities, while parties may also receive contributions by mandate holders and membership fees. There is a ban on donations from anonymous and foreign sources, other than by the Swiss citizens residing abroad, for the elections to the NC. However, these limitations on the federal level apply to the CoS elections, and the cantons may regulate them differently. While there is no expenditure limit, as recommended by international standards, ODIHR EET interlocutors did not raise any specific concerns about possible excessive spending by any political parties.<sup>26</sup> There is no ceiling on donations from a single source, at odds with international standards. Most ODIHR EET interlocutors stated that some state-owned or state-controlled companies donate or used to donate considerable amounts to one or more parties, often proportionally to their representation in parliament.<sup>27</sup> In general, the possibility for limitless donations

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<sup>22</sup> See the [GRECO Second Compliance Report on Switzerland, 10 June 2021](#). See also the [Second Addendum to the Second Compliance Report on Switzerland](#), published on 28 May 2024.

<sup>23</sup> The [Legal Opinion of the Federal Office of Justice: constitutionality of the ban on members of parliamentary committees accepting paid mandates, as of 16 October 2023](#), noted: ‘consideration could be given to strengthening the rules on transparency (level of remuneration for ancillary, disclosure of interests other than direct personal interests before the Member speaks on the committee or council). There could also be a ceiling on the amount of remuneration for ancillary activities or an obligation to hand over the remuneration (to avoid any appearance of bias).’ Article 8 of the CoE CM [Recommendation Rec \(2003\)4](#) states: “The rules regarding funding of political parties should apply, mutatis mutandis, to: – the funding of electoral campaigns of candidates for elections; – the funding of political activities of elected representatives”.

<sup>24</sup> As an exception, parliamentary groups receive compensation for the work of their secretariats. Indirectly, parties also benefit from the state budget via income tax deductions for donors.

<sup>25</sup> Article 1.2 of the CoE CM [Recommendation Rec \(2003\)4](#) holds that the state should provide support to political parties, limited to reasonable contributions. State support may be financial.

<sup>26</sup> Paragraph 19 of the [UN Human Rights Committee in General Comment No. 25](#) states “reasonable limitations on campaign expenditure may be justified where this is necessary to ensure that the free choice of voters is not undermined or the democratic process distorted by the disproportionate expenditure on behalf of any candidate or party”.

<sup>27</sup> For instance, several interlocutors mentioned that the Zürich Airport donated to the parties that voted to support its expansion. On 1 October 2023, less than a month prior to elections, the Airport board and management [stated](#) they ceased all donations to political parties and campaigners in the future.

from public contractors and companies with a state of cantonal majority share does not safeguard against the direct influence of big donors and corporations on political decision-making.<sup>28</sup>

*Limitations on campaign donations and expenditures should be considered. In line with international standards, explicit disclosure requirements for donations to political actors from state-owned or controlled companies should be introduced.*

### C. DISCLOSURE AND REPORTING

Under the new legislation, parties represented in the Federal Assembly, independent MPs and campaigns for the NC elections and federal popular votes must disclose their income, but not their expenditure, at odds with international standards and a prior GRECO recommendation.<sup>29</sup> Campaigners for the NC elections must disclose their income and donations received during a year before the elections, provided that their expenditure exceeds CHF 50,000.

Interim reports should be submitted to the SFAO 45 days before election day, and final reports are due 60 days after the elections, popular votes or referenda.<sup>30</sup> While campaigns for the CoS elections are not subject to disclosure requirements, the elected CoS MPs must report their campaign income 30 days after taking office.<sup>31</sup>

*The cantonal legislation should extend to the Council of States elections the application of the federal campaign finance regulation, including the ban on anonymous and foreign donations and the disclosure requirements.*

The identity of donors must be disclosed if they donate to the same campaigner over CHF 15,000 (approx. EUR 15,700) in one or more allotments during the year preceding the elections. Some ODIHR EET interlocutors considered that this very high threshold for disclosure does not contribute to transparency, as the vast majority of donations are below this amount. Many ODIHR EET interlocutors noted that donors may channel funds to parties and campaigners by donating to party-affiliated associations and foundations, thus avoiding disclosure of their identities.<sup>32</sup> Some campaigners voluntarily reported to the SFAO donations below the legal threshold, contributing to transparency.

By law, the disclosure requirements apply to political parties, individuals and associations conducting an election campaign. The law does not contain any clear and objective criteria to determine the existence of a distinct campaign and relies upon actors to voluntarily self-identify as campaigners and comply with the reporting requirements. Moreover, each political party may run multiple campaigns

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<sup>28</sup> Articles 3.b, 5.ii.b and 5.ii.c of the [CoE CM Recommendation \(2003\)4](#) recommend the member States to: “i. consider the possibility of introducing rules limiting the value of donations to political parties; ii. adopt measures to prevent established ceilings from being circumvented”; “take measures aimed at limiting, prohibiting or otherwise strictly regulating donations from legal entities which provide goods or services for any public administration and ‘prohibit legal entities under the control of the state or of other public authorities from making donations to political parties’..”

<sup>29</sup> Paragraph 30.ii of the [GRECO Second Compliance Report on Switzerland, 10 June 2021](#) recommends “ensuring that income, expenditure and the various elements of assets and liabilities are accounted for in detail and in full and presented in a coherent format”.

<sup>30</sup> If the CHF 50,000 threshold is reached later than 45 before the election day, the contestant is required as soon as the threshold is reached.

<sup>31</sup> The elections for the CoS are considered cantonal elections and thus subject to cantonal laws, while the elected CoS members are federal office holders and thus subject to federal laws, including the new regulation on the transparency of campaign finance.

<sup>32</sup> For example, individuals or corporations can donate sizeable amounts to foundations, who then relay the donations in a lump contribution to the campaigner, occluding the identities of the original donors.

in each canton, for each election contest, by different focus groups, individual candidates and in co-operation with other parties.<sup>33</sup> This decentralised campaign, inherent in the Swiss political system, is not conducive to consolidating a party's accounts with its cantonal and local branches. Additionally, the law does not require any reporting of expenditures, which significantly detracts from transparency.

*Consideration could be given to introducing a requirement for the campaigners to disclose their campaign expenditure in a disaggregated manner to further enhance transparency.*

#### **D. OVERSIGHT AND SANCTIONS**

The SFAO, an independent body with auditing competencies, is mandated to oversee campaign finance for federal elections, popular votes and enjoys stakeholders' trust.<sup>34</sup> The SFAO published guidelines, held briefings for political parties and cantonal authorities and responded promptly to their requests for clarifications. It published the financial declarations submitted by campaigners promptly, but it did not verify its<sup>35</sup> accuracy as it is not legally required to do so before publishing the declarations. The SFAO database of donations and income is easily accessible and user-friendly, facilitating public scrutiny.<sup>36</sup> However, at the time of elections, the database did not enable consolidation of all the accounts of the same contestant nor identification of all donations from a single donor, thus detracting from transparency, at odds with a prior GRECO recommendation.

While the campaigners are not required to report their expenditures, the SFAO contracted company to monitor campaign expenditures on social media, but it did not plan to publish the data submitted, as there is no such legal requirement. The SFAO explained that media monitoring, including over social networks such as paid content on YouTube, was an additional internal tool for identifying whether any campaigners that were subject to reporting requirements failed to submit their reports.

*To enhance transparency, consideration could be given to introducing additional tools to the database of the Swiss Federal Audit Office, including enabling the consolidation of parties' accounts to include cantonal, local branches and bodies affiliated with them and identifying all donations from a single source to all campaigns.*

As prescribed by law, after the final campaign finance reports were submitted, the SFAO conducted audits at campaign offices that were selected based on monitoring spending and on information received by whistle-blowers. The SFAO carried out audits of 24 election campaign offices, 19 for the NC and 5 for the CoS.<sup>37</sup> The SFAO informed the ODIHR EET that it is not authorised to provide information on the audit findings nor on sanctions that it imposed, with the exception of legally binding convictions, which it references in the corresponding entry in the public register.<sup>38</sup> If the

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<sup>33</sup> As of 16 October 2023, 285 campaigns reported to the SFAO (e.g. exceeded the CHF 50,000 threshold) a total income of CHF 55 million. Of them, 180 were led by legal persons, including political parties and associations, and 105 by natural persons, including candidates.

<sup>34</sup> The SFAO considers itself sufficiently resourced with 4 staffers and 15 auditors dealing with campaign finance.

<sup>35</sup> For the publication of this report, the SFAO informed ODIHR that The database contains a [consolidation](#) per party with all candidates and a [download function](#) that enables interested parties to download data summaries in the Excel format.

<sup>36</sup> See the [SFAO databases](#) for the NC and the CoS election campaigns. Paragraph 258 of the [2020 ODIHR and Venice Commission Guidelines on Political Party Regulation](#) states that “digitalizing information and submitting it to the regulatory body in its digitalized, easily searchable and reusable form can facilitate oversight and therefore minimize the need for paper-based procedures”.

<sup>37</sup> See the [overview of the audited political actors](#) and the [press release](#) on the audits.

<sup>38</sup> See the [SFAO publication platform](#).

SFAO identifies irregularities, it is required to notify the corresponding cantonal prosecutors mandated with the investigation.

The law stipulates sanctions up to CHF 40,000 for irregularities; ODIHR EET interlocutors did not consider such fines to be dissuasive; however, they noted that the fines bring with them negative publicity, which can have a negative impact on voters' support.<sup>39</sup>

## VI. INTERNET VOTING

Following several trials from 2004 to 2019 and a redesign process launched by the Federal Chancellery and the cantons, trials resumed in June 2023 in three cantons: Basel-Stadt, St. Gallen, and Thurgau, where internet was used as an additional voting channel. On 16 August, pursuant to requests by these cantons, the Federal Chancellery authorized internet voting trials for the National Council elections for voters residing abroad registered to vote in the three cantons, voters with permanent disabilities in Basel-Stadt, and a limited number of voters in several communes in St. Gallen.<sup>40</sup>

In general, changes to internet voting introduced prior to these elections improve transparency and verifiability, adding to the overall integrity of the process. However, some aspects related to election management, supervision and auditing bodies and procedures could benefit from further review.

### A. LEGAL FRAMEWORK

At the federal level, internet voting is regulated by the FAPR, the PoRO and the May 2022 Ordinance on Electronic Voting (OEV).<sup>41</sup> Additionally, cantonal legislation is also applicable which regulates conditions for introducing the internet voting channel, categories of voters eligible to vote online during the trials with a binding effect on election results, and the rules for the validity of electronic votes.

In 2022, the PoRO and OEV were amended to address shortcomings identified in 2019.<sup>42</sup> The changes were introduced following inclusive public consultations during the course of 2020 and 2022.<sup>43</sup> The amendments clearly define the principles for secrecy, equality of the vote and integrity of the results and prescribe enhanced security and more precise criteria for internet voting systems and their operation. These include enhancements on individual and universal voter verifiability, in line with

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<sup>39</sup> Article 16 of the [Recommendation \(2003\)4](#) prescribes that the "[s]tates should require the infringement of rules concerning the funding of political parties and electoral campaigns to be subject to effective, proportionate and dissuasive sanctions".

<sup>40</sup> In total, 65,319 voters were eligible for internet voting. Of these, 9,879 in Basel-Stadt, including 9,861 voters abroad and 18 voters with disabilities, 50,487 voters in St. Gallen, including 10,889 voters abroad and 39,598 residing in the selected communes) and 4,953 in Thurgau. Of these, 23,136 cast their votes across all voting channels, representing 35.42 per cent of all the eligible voters (2,359 in Basel-Stadt, 19,821 in St. Gallen and 956 in Thurgau). Finally, 4,480 voters voted over the internet, or 6.86 per cent of all the eligible voters (1,444 in Basel-Stadt, 2,495 in St. Gallen and 541 in Thurgau).

<sup>41</sup> See the Federal Chancellery's [web page](#) dedicated to internet voting. The legislation is supplemented by the 2014 Act on Swiss Nationals and Institutions Abroad (last amended in 2018), the 2020 Federal Act on Data Protection (FADP), and the Criminal Code (last amended in 2023).

<sup>42</sup> The trials were discontinued after independent researchers identified flaws in the individual verifiability of the Swiss Post internet voting system, and the Geneva canton decided to discontinue its system also in 2019 due to the cost of developing and maintaining it.

<sup>43</sup> An expert dialogue was held with representatives primarily from academia to identify additional requirements for enhancing system security and verifiability. Additionally, an open consultation was held on the regulatory framework proposed by the federal government, involving the cantons, political parties, and civil society.

international standards.<sup>44</sup> The new regulation also provides for an independent examination commissioned by the Federal Chancellery, and the results of examinations made public, tighter transparency requirements such as the publication of the source code, a continuous bug bounty programme, an annual ‘Public Intrusion Test’, and increased engagement of independent experts in the design, development, and scrutiny. The new regulations also prescribe that internet voting trials must be limited to a maximum of 30 per cent of the electorate of any canton and up to 10 per cent country-wide.<sup>45</sup>

The legal framework is comprehensive and enshrines high-level security requirements, including voter verifiability and multiple control system components and full responsibility of the election management bodies for reliability and security. The OEV prescribes technical and administrative requirements for internet voting, including cryptographic requirements and those related to the operation of the system, preparation of the ballot as well as the voting and counting processes. However, the PoRO allows cantons to derogate from federal regulations, and the OEV allows them to be exempted from meeting specific requirements.<sup>46</sup> Such discretionary powers could lead to inconsistent practices and circumvention of important safeguards.

*The federal regulatory framework on internet voting should exclude any derogations of the cantons from the rules aimed to ensure the secrecy of the vote and integrity of results or prescribe a strict procedure for individual exemptions to the federal requirements.*

Neither federal nor cantonal legislation explicitly provides for international or citizen election observation, which is at odds with international standards and previous ODIHR recommendations.<sup>47</sup> Notwithstanding, the ODIHR EET was permitted to observe all aspects of the Internet voting process and was granted access to information in a timely manner.<sup>48</sup> The authorities in all cantons informed that they would, in principle, accommodate any requests to observe internet voting. However, a Pirate Party representative informed the ODIHR EET that its request to observe specific internet voting procedures had been refused.<sup>49</sup>

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<sup>44</sup> Verifiability incorporates both individual (cast-as-intended and recorded-as-cast) and universal (counted-as-recorded) verifiability. Standards 15 to 17 of the [Council of Europe’s Recommendation CM/Rec\(2017\)5 of the Committee of Ministers to member States on standards for e-voting](#) prescribe that “[t]he voter shall be able to verify that his or her intention is accurately represented in the vote and that the sealed vote has entered the electronic ballot box without being altered”; “[t]he voter shall receive confirmation by the system that the vote has been cast successfully and that the whole voting procedure has been completed; and [t]he e-voting system shall provide sound evidence that each authentic vote is accurately included in the respective election results. The evidence should be verifiable by means that are independent from the e-voting system”.

<sup>45</sup> As in the past, voters abroad are excluded from these limits. As a further relaxation to the limits for these trials, the maximum number of voters with disabilities were not included in this cap.

<sup>46</sup> Most notably, the OEV prescribes counting of internet votes once the voting period ends on election day. However, the cantons of Basel-Stadt and St. Gallen introduced a practice to count the internet votes already a day before election day.

<sup>47</sup> See paragraph 8 of the [1990 OSCE Copenhagen Document](#) and paragraph 33.e of the Council of Europe Committee of Ministers’ [Guidelines](#) on the implementation of the [Recommendation CM/Rec\(2017\)5](#) on standards for e-voting recommends that “[d]omestic [...] observers and the media should be able to observe the testing of the software and hardware. More specifically, representatives of political parties and the general public should be able to observe the verification of the e-voting devices and system. The process should be open enough to allow observers to have full insight into the operation of the system.” See also paragraph 96 of the [Explanatory Memorandum](#) on [Recommendation CM/Rec\(2017\)5](#).

<sup>48</sup> In its 2022 [circular letter](#) to the cantons, the Federal Chancellery asked them to “grant unhindered access to the international election observers”.

<sup>49</sup> The authorities of St. Gallen justified their decision based on the absence of a legal foundation in the cantonal law on elections and voting for external persons such as independent review committees or domestic election observers to attend the counting procedures.

*In line with OSCE Commitments and a prior ODIHR recommendation, the electoral legislation should be amended to explicitly allow for international and citizen observation of all aspects of the electoral process, including all stages of internet voting on federal and cantonal levels.*

## **B. ADMINISTRATION**

The administration of internet voting mirrors the federal and cantonal organisation of the election processes. The government is responsible for setting the standards, issuing the licences to cantons and authorising them to use internet voting, and for the independent examination of the internet voting systems. The Federal Chancellery and the cantons are in regular co-ordination, and the cantons co-operate on matters such as documentation and commonly operating a voter information website.<sup>50</sup>

There are no federal regulations on the composition and mandate of election administration bodies. The overall responsibility for administering internet voting lies fully with the cantonal authorities. The tasks are typically divided between the political rights or legal service of the cantonal chancellery and a separately-formed electoral board, as provided by cantonal law.<sup>51</sup> The cantonal rules vary, but in all three cantons conducting internet voting trials, the electoral boards are by law tasked with overseeing the process.<sup>52</sup>

The chancelleries of Basel-Stadt and Thurgau select the electoral board members, usually from among the cantonal employees, and in St. Gallen, the nominations are submitted by political parties. Since the cantonal chancellery and the electoral boards in all three cantons have the responsibility for safeguarding and keeping secret the shares of the election key used for the decryption of the votes, the direct subordination and dependence of board members on some of the cantonal governments does not ensure effective oversight over internet voting and is at odds with international standards.<sup>53</sup>

*The law should prescribe minimum requirements on the composition, mandate and responsibilities of the election administration bodies in charge of internet voting to ensure independence from cantonal administration, particularly in terms of supervising the process and ensuring that the election (cryptographic) material is not compromised.*

In addition to federal and cantonal authorities, several private providers are involved in the design, programming and implementation of internet voting. The Swiss Post was the only vendor whose system met the federal legal requirements to be used in these elections.<sup>54</sup> Most ODIHR EET interlocutors were satisfied with the role of the Swiss Post and even considered it beneficial that only one system is used in the country, despite the inherent danger of becoming over-dependent on a single

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<sup>50</sup> See the [cantons' information webpage on e-voting](#).

<sup>51</sup> The elections departments do not work exclusively on internet voting but have dedicated staff for this purpose. In St. Gallen, the Political Rights Service is supported by the e-government unit at the Digital Services Office. In Basel-Stadt, the IT department is entrusted with the preparation and hardening of the computers.

<sup>52</sup> In Basel-Stadt, the Ordinance on test operations for internet voting stipulates that the election committee comprises representatives of the Government Council for Elections and Voting and employees of the cantonal chancellery. In St. Gallen, the Elections and Voting Act stipulates that the government elects a cantonal electoral office with at least seven members, with adequate representation of the political parties and no government members. In Thurgau, the cantonal chancellery acts as the cantonal election office for federal and cantonal elections, and popular votes, and there are no criteria for the appointment of the five members of the electoral board that oversees internet voting.

<sup>53</sup> Paragraph 46.a of the of Council of Europe Committee of Ministers' [Guidelines](#) on the implementation of the provisions of Council of Europe [Recommendation CM/Rec\(2017\)5](#) on standards for e-voting prescribes that "[t]he private cryptographic keys be should be generated at a public meeting and should be divided in separate parts and shared by at least two people who are unlikely to collude".

<sup>54</sup> The Confederation is the full owner of the Swiss Post.

vendor.<sup>55</sup> In addition, the cantons rely on external providers for the design and printing of the voter cards and for configuring their local IT infrastructure.<sup>56</sup> The canton of St. Gallen also engaged a private company for the operation of the part of the system.<sup>57</sup> These external providers have by law significant competences, which may impair cantons from their overall responsibility in administering internet voting, at odds with international standards.<sup>58</sup> In addition, the involvement of these third parties is not always accounted for in the publicly available documentation, which reduces transparency.

*In line with international standards, the law should mandate that the cantonal election management bodies are directly in charge of all critical election functions. Procurement processes for the outsourced internet voting services and software components should be carried out transparently.*

The Federal Chancellery co-operated with the National Cyber Security Centre (NCSC) and the Swiss Armed Forces Command Support Organisation.<sup>59</sup> While the Federal Data Protection and Information Commissioner (FDPIC) was consulted during the drafting of the internet voting regulations, some cantonal data protection authorities informed ODIHR that they were not, which may jeopardize critical procedures such as data destruction.<sup>60</sup>

### C. AUTHORIZATION, TESTING AND AUDIT

To introduce internet voting, cantons must be licensed by the Federal Council and the Federal Chancellery authorizes them before each federal vote or election.<sup>61</sup> The Federal Chancellery had issued guidelines about the authorization process, with the results being publicly available. Cantons also published their documentation related to the internet voting components and procedures, in line with the law.<sup>62</sup>

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<sup>55</sup> Paragraph 88 of the [Explanatory Memorandum](#) to the 2017 [Council of Europe's CM standards on electronic voting](#) states that "[o]ne aspect which will help make sure that the electoral management body has effective control over e-voting is for member States not to be over-dependent on just a few vendors since this could result in a vendor-lock-in."

<sup>56</sup> St. Gallen and Thurgau outsourced the design and printing of the voter cards to Abraxas Informatik AG. St. Gallen outsourced the printing of the voting cards to Abraxas Informatik AG, Thurgau to Baumer AG and Basel-Stadt to both providers. All cantons hired Ontrex AG to configure their IT systems.

<sup>57</sup> The company Mabuco GmbH played an instrumental role during the mixing and counting operations.

<sup>58</sup> According to the PoRO, cantons may delegate operational tasks to external organisations, but they still bear overall responsibility for supervising and monitoring the system operator's work. Para 88 of the [Explanatory Memorandum](#) for paragraph 29 of the [CM/Rec\(2017\)5](#) states that the "[s]tatutory duties of the body responsible for the conduct of elections must never be outsourced, since this body is in charge of the election".

<sup>59</sup> Notably, the NCSC supports operators of critical infrastructures in dealing with cybersecurity incidents. It produces technical analyses to assess and prevent threats and incidents and to identify and eliminate weaknesses. The Swiss Armed Forces Command Support Organisation monitors network activities, analyses attempted cyberattacks and takes the necessary measures to protect critical systems.

<sup>60</sup> According to paragraph 28.d of the Council of Europe Committee of Ministers' [Guidelines](#) on the implementation of the provisions of Council of Europe [Recommendation CM/Rec\(2017\)5](#) on standards for e-voting, "[t]he legal framework should include procedures for the process of data destruction, in particular to align processing, storing and destruction of the data (and equipment) of voting technology with the personal data protection legislation". Furthermore, the [Modernised Convention for the Protection of Individuals with Regard to the Processing of Personal Data](#) prescribes in its art. 15.3 that "supervisory authorities shall be consulted on proposals for any legislative or administrative measures which provide for the processing of personal data". These obligations are especially relevant since the internet voting system processes political opinions, which are considered special categories of data according to art. 6.1 of the Modernised Convention, and [processing such data] "shall only be allowed where appropriate safeguards are enshrined in law".

<sup>61</sup> The FAPR also grants the Federal Council the power to "exclude electronic voting at any time." In such case, voters can still come to vote either by post or in-person on election day.

<sup>62</sup> The information is publicly available at the respective sites of [the Federal Chancellery](#) in French, German, and Italian, as well as the cantons of [Basel-Stadt](#), [St. Gallen](#), and [Thurgau](#) (in German only).

In accordance with the newly introduced federal requirements, the Federal Chancellery has to organize regular examinations by independent experts instead of the formal certification of the internet voting system foreseen in the past. The examination is divided into four scopes, and the Federal Chancellery decides which examiners will be responsible for each scope.<sup>63</sup> This process is meant to overcome the flaws in the previous certification process, which failed to identify critical issues in the Swiss Post's voting system.<sup>64</sup> This method for appointing independent examiners does not fully align with international standards, since the appointment criteria are not explicitly prescribed by law, the recruitment procedure is not open to all independent and qualified professionals, and it does not address potential conflicts of interest and may lead to questions about the independence of the examiners.<sup>65</sup>

*Independent examiners should be recruited following an open and public recruitment process based on explicit criteria.*

Federal regulations prescribe the criteria to be used by the examiners.<sup>66</sup> In line with previous ODIHR recommendations, the generation and printing of the voting cards are now included within the examination scope. Notwithstanding, some ODIHR EET interlocutors shared concerns that the criteria for the examination lack clarity and are overly complex. This process also lacks objective criteria regarding the classification of the findings by the examiners, and there are no clear follow-up procedures to monitor the actual implementation of fixes, recommendations, and good practices. The examination results are published online, alongside the replies from the cantons and the Swiss Post.<sup>67</sup> However, the consultations between the examiners, the Federal Chancellery, and the Swiss Post are not publicly disclosed. In addition to the formal examination mandated by the Federal Chancellery, cantons are responsible for publishing the source code of the system software.

Many processes related to internet voting, such as voter registration and voter register management, are supported by additional technologies, which are not regulated at the federal level and are therefore excluded from the scope of the evaluation by the Federal Chancellery. The lack of federal regulations results in system designs without obligations for appropriate proper testing, audits and examination (or certification) of supporting systems, at odds with international standards.<sup>68</sup>

*Consideration should be given to extending the examination by the Federal Chancellery to all supporting information and communication technologies that affect internet voting and consolidation of election results from the various voting channels, in line with international standards.*

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<sup>63</sup> The four scopes are the cryptographic protocol of the system, the software, the infrastructure and operations of the Swiss Post and the cantons, and an intrusion test. For some scopes, more than one examiner is appointed.

<sup>64</sup> For the 2019 trials, flaws in the source code were identified by independent experts following its publication rather than being captured at the time of certification.

<sup>65</sup> Paragraph 37.a of the of Council of Europe Committee of Ministers' [Guidelines](#) on the implementation of the provisions of Council of Europe [Recommendation CM/Rec\(2017\)5](#) on standards for e-voting recommends that prescribes that "the criteria, modalities and competent institutions involved in the selection of certification bodies should therefore be explicitly laid down in national legislation. Member States are responsible for drafting the rules and guidelines for the selection process. These procedures need to be known and made public well in advance of the election day. This will facilitate the task of vendors and fosters electors' trust in procedures. The number of certification bodies should not be limited; anybody who is independent and qualified should be eligible to perform the certification".

<sup>66</sup> These are incorporated in the PoRO, the OEV and its Annex, and the Explanatory Report to the amendments to these two ordinances.

<sup>67</sup> The legal framework can be found at the [Federal Chancellery's site dedicated to Internet voting](#).

<sup>68</sup> The 2022 Council of Europe Committee of Ministers' [Guidelines on the use of ICT in electoral processes](#) recommends that the "Member States should organise an evaluation of the ICT solutions used in the election process by independent experts prior to implementation."



## VII. ELECTION ACCESSIBILITY FOR PERSONS WITH DISABILITIES

### A. LEGAL FRAMEWORK

There are up to 1.8 million persons with disabilities in Switzerland, including minors (20 per cent of the population), of which 29 per cent are considered to have significant disabilities.<sup>69</sup> The legal framework for the electoral participation of persons with disabilities primarily consists of the Federal Constitution, the FAPR, the 2004 Federal Act on the Elimination of Discrimination against Persons with Disabilities (Disability Discrimination Act or DDA, last amended in 2020) and the 2003 Ordinance on the Elimination of Discrimination of Persons with Disabilities (last amended in 2021).<sup>70</sup> The federal legislation provides some guarantees for the participation of persons with disabilities in the electoral process, but several aspects are yet to be amended to comply with the provisions of the Convention.

Since 1999, the Federal Constitution has prohibited discrimination on the grounds of disability and requires the introduction of measures to eliminate such practices.<sup>71</sup> However, the DDA defines discrimination narrowly, lacking clear provisions on indirect discrimination by non-state actors by failing to provide reasonable accommodation<sup>72</sup> and not ensuring access to an effective legal remedy.<sup>73</sup> Thus, the legal provisions on equality and non-discrimination are not harmonised with the CRPD and do not ensure full and equal electoral participation of persons with disabilities.<sup>74</sup>

*To guarantee full and effective implementation of the political rights of persons with disabilities, the legislation should be amended in line with the standards of non-discrimination enshrined in the Convention on the Rights of Persons with Disabilities, including on indirect discrimination, denial of reasonable accommodation and ensuring the right and access to a legal remedy.*

The DDA defines general accessibility requirements but limits them to the removal of barriers to access in public transportation, buildings and services. For the NC elections, the FAPR mandates the cantons to ensure that voters with disabilities are able to vote and allows cantonal legislation to prescribe that voters who cannot vote independently may obtain assistance from a person of their choice. However, the federal legislation lacks the general requirement that voting procedures,

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<sup>69</sup> See the [information](#) provided by the Federal Statistical Office.

<sup>70</sup> Switzerland ratified the 2006 UN Convention on the Rights of Persons with Disabilities (CRPD) in 2014, but not the Optional Protocol to the Convention, thus not ensuring legal remedy for violations of the CRPD. The optional protocol enhances the [CRPD](#) by adding, *inter alia*, a mechanism allowing individuals and groups to file complaints with the Committee on the Rights of Persons with Disabilities if they believe their rights under the CRPD have been violated.

<sup>71</sup> The civil society organization [Inclusion Initiative](#) is attempting to collect 100,000 signatures by October 2024 in order to conduct a popular vote to amend Article 8 of the Federal Constitution and ensure "legal and *de facto* equality of persons with disabilities in all areas of life" and "necessary support and adaptation measures, in particular personal and technical assistance, within the framework of proportionality".

<sup>72</sup> See more [information](#) on the concept of reasonable accommodation.

<sup>73</sup> The DDA explicitly grants persons with disabilities the right to request necessary measures to eliminate discrimination only pertaining to infrastructure, public transportation and services provided by state-owned and licensed companies.

<sup>74</sup> Article 5 of [CRPD](#) prescribes that "states shall prohibit all discrimination on the basis of disability and guarantee to persons with disabilities equal and effective legal protection against discrimination on all grounds" and "shall take all appropriate steps to ensure that reasonable accommodation is provided".

facilities and materials are appropriate, accessible and easy to understand and use, as prescribed by the CRPD.<sup>75</sup>

*The law should explicitly prescribe voting procedures, facilities and materials that enable voters with disabilities to independently acquire election-related information and to vote independently.*

## **B. VOTING RIGHTS**

Citizens over the age of 18 have the right to vote in federal elections and popular votes unless they are deprived of their legal capacity due to mental illness or mental incapacity.<sup>76</sup> At odds with the CRPD, the Swiss Civil Code and the Swiss Adult Protection Law foresee full guardianship with full substitute decision-making over persons with some types of intellectual disability or psychosocial disorder.<sup>77</sup>

*Federal legal provisions that result in the disenfranchisement of persons with intellectual disabilities should be reviewed, and a system of supported decision-making should be developed and implemented in line with international standards.*

Voter registration is passive. Voter lists are compiled by the communes or cantons based on the population registers. In Basel-Stadt, persons with disabilities could request, not later than 55 days before election day, to be registered to vote over the internet, provided that they presented their disability card or a medical certificate, in paper or electronically, and 18 persons requested and were registered before these elections. The registration for internet voting is valid for all future elections and popular votes.

To stand for election, individual candidates must be included on a list of candidates, usually a party list.<sup>78</sup> For these elections, there was a record-high number of candidates with disabilities, mainly due to a civil society campaign raising awareness about the political participation of persons with disabilities.<sup>79</sup> However, there were no assistive measures to support their candidacies, such as sign

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<sup>75</sup> Article 29 of the [CRPD](#) prescribes that states shall ensure “that voting procedures, facilities and materials are appropriate, accessible and easy to understand and use”. See also paragraph 13 of the General Comment No 2 of the Committee on the Rights of Persons with Disabilities that explains that “as long as goods, products and services are open or provided to the public, they must be accessible to all, regardless of whether they are owned and/or provided by a public authority or a private enterprise. Persons with disabilities should have equal access to all goods, products and services that are open or provided to the public in a manner that ensures their effective and equal access and respects their dignity”.

<sup>76</sup> In November 2020, the canton of Geneva amended its Constitution to grant all persons with disabilities the right to vote and be elected in cantonal elections without restrictions.

<sup>77</sup> Article 12 of the [CRPD](#) obliges states to “recognize that persons with disabilities enjoy legal capacity on an equal basis with others in all aspects of life”. Paragraph 26 a. and b. of the [2022 CRPD Concluding observations on Switzerland](#) recommend to “amend the Civil Code and the Act on the Protection of Adults and repeal any laws and associated policies and practices that have the purpose or effect of denying or diminishing the recognition of any person with disabilities as a person before the law” and to “develop and implement ... a nationally consistent framework for supported decision-making that respects the will, preferences and individual choices of persons with disabilities”.

<sup>78</sup> To run individually, candidates would need to register a party list with only their name and compete under the same conditions as party lists.

<sup>79</sup> The civil society organization *Pro Infirmis* conducted the campaign “Get used to it”. The ODIHR EET was made aware of 35 candidates with disabilities, including 15 women; 11 were nominated by the Social Democrats, five each by The Center Party and Green Liberal Party, three each by the Green Party, the Evangelists People's Party and the Free Democratic Party, two by the *Mass Voll* Party and one each by the *Les Libres*, Pirate Party and UpRight. Of them, three were elected, all of them men, of which two were re-elected.

language interpreters, speech assistants, or speech-to-text tools. Additionally, there were no measures to enable elected persons with disabilities to fulfill their mandate, as prescribed by the CRPD.<sup>80</sup>

### C. ELECTORAL CAMPAIGN AND MEDIA

Some candidates, especially those with severe disabilities, did not have equal campaign opportunities as all other candidates due to additional campaign costs, such as a need for sign language interpreters, special transportation and speech assistants.<sup>81</sup> For some candidates, the nominating party or the organizations of persons with disabilities covered such expenses, while at least one candidate did so by crowdfunding. Several candidates refrained from requesting their parties to cover such expenses, fearing that they would lose party support in future elections.<sup>82</sup> The difficulties that candidates face when seeking equal opportunities to campaign are contrary to Article 29 of the CRPD.

*To ensure that candidates with disabilities enjoy equal campaign opportunities, consideration should be given to providing financial support to reduce disability-related costs. Such expenses could be covered by insurance or public subsidies to parties that prove their inclusiveness or by means of a dedicated public fund.*

Several ODIHR EET interlocutors, including from political parties, noted that campaign events were not fully accessible for voters with disabilities, that the venues were not always barrier-free, and that the sign language interpretation was provided only in a few cases. There is no legal requirement for political parties to have accessible websites, and only a few parties issued their campaign platforms in plain and in sign languages, but this information was not easy to find on the parties' websites.

By law, the public Swiss Broadcasting Corporation (SBC) is obliged to provide a certain amount of information with subtitles, sign language and audio description and the amount of this information is gradually increasing.<sup>83</sup> Under the 1997 Telecommunications Act, all licensed media should provide universal services accessible to persons with disabilities and in conditions comparable to those afforded to persons without disabilities.

The regulations on the accessibility of digital information prescribe requirements for easy-to-read language and sign language; these may apply to federal public agencies, the cantons and the municipalities but not to private entities and not to private media.<sup>84</sup> Sign language is not legally recognised as an officially used language, and there is no requirement to have sign language interpretation at important political public events, such as parliamentary sessions. Most ODIHR EET interlocutors generally acknowledged progress in the accessibility of media for persons with disabilities, noting, however, that more political information should be provided with audio description and sign language.

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<sup>80</sup> Article 29 of the CRPD requires states to ensure that “persons with disabilities can effectively and fully participate in political and public life on an equal basis with others [...] by; ii) Protecting the right of persons with disabilities [...] to stand for elections, to effectively hold office and perform all public functions at all levels of government, facilitating the use of assistive and new technologies where appropriate”.

<sup>81</sup> These costs were not covered by their insurance, as they are not considered essential or employment-related.

<sup>82</sup> See Paragraphs 55.c and 56.c of the [2022 CRPD Concluding Observations on Switzerland](#). The Committee recommends to “establish mechanisms to ensure the right of all persons with disabilities to participate in political and public life, including through advocacy, without incurring penalties or reprisals, such as disqualification for social insurance benefits and other entitlements”.

<sup>83</sup> Currently, 80 per cent of the linear TV programmes of the SBC are subtitled, with the aim to subtitle all editorial TV programmes by 2027. The SBC offers at least 1,000 hours of initial broadcasting with sign language interpretation, with the aim to reach 1,300 hours by 2027, prioritizing political content; it plans to increase the hours of programmes with audio description from 1,200 today to 2,000 by 2027.

<sup>84</sup> See the 2020 [Accessibility Standard \(eCH-0059\)](#), which applies to all information and services of the public sector and prescribes how to ensure e- accessibility.

## D. VOTING PROCEDURES

Persons with disabilities may vote in polling stations, by postal vote and through internet voting where applicable. Several ODIHR EET interlocutors raised concerns that persons with disabilities in residential care facilities and other social institutions often have insufficient information about their right to vote and voting procedures, while the facility staff would often fail to notify them of their right to vote.<sup>85</sup>

In co-operation with disability organizations, the Federal Chancellery produced voter information in plain language in German, French and Italian and posted it on the election web portal, and a video on voting procedures was also available. Disability organizations distributed this information among their members in institutions and other places of interest, contributing to voter information for persons with disabilities. While most ODIHR EET interlocutors welcomed this practice, they noted that more official voter education and political information should be available in plain and easy-to-read formats and with sign language translation, while classes on political education taught in regular schools should also be taught in schools for children with disabilities.<sup>86</sup>

The Canton of Basel-Stadt provided internet voting for all persons with disabilities in the canton, which was certified as accessible for persons with disabilities by an independent auditor. Currently, only internet voting enables blind and visually impaired persons to vote independently, which increases the opportunities for persons with disabilities to vote in secrecy and be confident that their votes were cast as intended. However, the internet voting instructions lacked plain language and sign language interpretation and thus were not made accessible for some persons with disabilities, contrary to international good practice.<sup>87</sup> The codes used for voters to verify their votes were recorded as cast and printed on the voter cards mailed to voters but were not prepared in Braille. However, their design enabled easy reading by special applications on handheld devices used by persons with visual impairments.

*The authorities and other relevant stakeholders should provide accessible voter education materials, including internet voting instructions in formats accessible for persons with disabilities, sign language interpretation and plain language text.*

## VIII. VOTING, COUNTING AND TABULATION OF ELECTION RESULTS

Voting, counting and tabulation procedures are regulated by cantonal laws and vary substantially among cantons and communes, while the Federal Chancellery is responsible for ensuring that the federal standards are adhered to.

All eligible voters receive their ballots and voting materials by post. They may opt for voting in a polling station or by post, which is well established and was used by more than 90 per cent of the voters. To vote online, voters are required to access the official voting platform.<sup>88</sup> Although the voting

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<sup>85</sup> According to the Federal Statistical Office, some 26 per cent of the persons with disabilities reside in institutions.

<sup>86</sup> The civil society organisation *Insieme*, working with and for persons with intellectual disabilities, conducted a [campaign #IVote](#) to raise awareness that persons with intellectual disabilities are interested in politics, but there is insufficient information in plain language and easy-to-read formats.

<sup>87</sup> According to the Federal Chancellery [Ordinance on Electronic Voting](#), the [Accessibility Standard eCH-005913](#) was applicable to internet voting, with the exception of the requirements for sign and plain languages. Paragraph 92 of the [Explanatory Memorandum to Recommendation CM/Rec\(2017\)5](#) states that "the use of sign language and subtitles should also be included to further reduce barriers when communicating on e-voting".

<sup>88</sup> The voting websites are specific for each canton, and they are updated for each election.

materials included the internet address and measures to identify the official platform, some voters searched for the portal on web browsers instead, risking accessing an erroneous voting platform aiming to steal their voting credentials.<sup>89</sup> In line with a previous ODIHR recommendation, more voter information about internet voting was provided, including a website with up-to-date information, a demo platform, and printed instructions sent by the cantons in June 2023.<sup>90</sup>

To access the platform for internet voting, voters must introduce a code printed in their voting materials and their date of birth. Whereas this is not the most secure method for voter authentication, the ODIHR EET interlocutors did not raise any concerns about potential voter impersonation. Once a voter makes or confirms their preference on the ballot, the ballot is encrypted in the voting device, thus preserving confidentiality. The system provides for cast-as-intended verifiability using a combination of choice codes and voting receipts for recorded-as-cast verifiability.

The first vote cast and received by the canton is deemed valid, regardless of the voting channel used. If the ballot was sent by post, upon receiving a paper ballot, the canton checks the barcode in the voting card, which must be included in the outer envelope. Voters eligible to vote online but did not vote yet, are excluded from the voter list for internet voting, and the paper ballot is accepted. If voters already voted online, their postal ballot is disregarded. Voters can only vote online once. The ODIHR EET interlocutors were not aware of attempts by voters to cast multiple votes.

On election day, the internet votes are anonymised and decrypted. Anonymisation is done using a mix-net which is distributed in five control components, of which four are at the Swiss Post's premises and one is operated by the canton.<sup>91</sup> The votes are then transferred to an offline computer, where they are decrypted to reveal the voting choices. The decryption key is split using a key-sharing mechanism, which requires the participation of two members of the electoral board to reveal the contents of the votes. These operations are verifiable by the canton and the electoral board with mathematical proofs. The verification of these proofs is done on a third computer, which is also not connected to the internet.

In the case of internet voting, the cantons and the Swiss Post provided checklists of operations for the vote counting and the verification of the results. However, the cantonal authorities did not implement these checklists consistently, including pertaining to conducting the universal verifiability proofs (Zero-knowledge proofs) and manual checks by the electoral boards.<sup>92</sup> In addition, the process was not open to the public, detracting from transparency. While the universal verifiability proofs were verified only through the use of open-source software created by the Swiss Post, the ODIHR EET was informed that additional software and providers for this verification may be used in the future.<sup>93</sup>

After the vote count, the results of all voting channels were imported into the tabulation software jointly used by the canton and the communes. The communes then tabulate the results of the internet voting and postal voting, which are subsequently aggregated at the cantonal level.

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<sup>89</sup> Ahead of the election, [a possible attack was reported](#), whereby voters would be asked to provide their return codes for individual verifiability on an unofficial voting portal instead of having to verify the return codes shown to them. Most interlocutors considered that the information in printed documentation was sufficient to prevent such a cyber-attack, while election administrations are considering raising voter awareness and ensuring that the printed materials sent to voters are clear and usable.

<sup>90</sup> The [test platform](#) is publicly accessible.

<sup>91</sup> The four control components are constructed differently and run on different operative systems and computers.

<sup>92</sup> Basel-Stadt and St. Gallen were authorized to mix and decrypt the votes cast online before the end of the voting period; Thurgau did not conduct the mixing of the votes in the presence of the electoral board. The plausibility checks were also conducted differently in the cantons of St. Gallen and Thurgau.

<sup>93</sup> The source code of Swiss Post's verifier can be found online.

Three days after the publication of the election results, the Federal Statistics Office announced a miscalculation in the summarized results for the political parties at the federal level for the NC elections.<sup>94</sup> According to the federal authorities, the error was identified during a verification process and was attributed to a different format for data transmission used in the cantons Appenzell Innerrhoden, Appenzell Ausserrhoden, and Glarus.<sup>95</sup> The erroneous tabulation artificially changed the overall share of some parties for the entire country, but it did not affect the initially established seat allocation.<sup>96</sup> However, the winning order of parties on the federal level was affected, which proved to be significant, as the composition of the Federal Council elected by the Federal Assembly is based on the overall share of votes, so that the three parties with the highest share of votes receive two seats in the Federal Council each, and the party with fourth highest share receives one seat.<sup>97</sup> While the tabulation error appeared to be trivial and was discovered well in time for the Federal Council elections, such errors illustrate the need for comprehensive testing of the tabulation software on the federal level and verification before the publication of the results.

*In order to maintain the trust of the electorate in the integrity of election results, authorities should conduct comprehensive testing of voting, counting and tabulation and co-ordinate the operation of the results reporting systems with the cantonal administrations well in advance of elections.*

## IX. RECOMMENDATIONS

These recommendations, as contained throughout the text, are offered to further enhance the conduct of elections in the Swiss Confederation and to support efforts to bring them fully in line with OSCE commitments and other international obligations and standards for democratic elections. These recommendations should be read in conjunction with past ODIHR recommendations that have not yet been addressed. ODIHR stands ready to assist the Swiss authorities to further improve the electoral process and address the recommendations in this and previous reports.<sup>98</sup>

### Party and Campaign Finance

1. Consideration should be given to amending the law to explicitly prescribe the body mandated with oversight of political finances and its competences.

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<sup>94</sup> See the [press release](#) by the Federal Statistical Office.

<sup>95</sup> These three cantons submitted their election results for overall tabulation of results on the federal level in MS Excel format, which was different from the format used by all other cantons. According to the Federal Chancellery, the tabulation software used was not programmed correctly to accurately read the results in such format and, as a result, the voting results for all parties in the three cantons were counted multiple times.

<sup>96</sup> See the [table of corrections](#) published by the Federal Statistical Office.

<sup>97</sup> After the correction of the error, the FDP.The Liberals came in third, instead of the Centre Party, which was placed fourth. As the result of the correction, and based on the formula used for determining the political composition of the Federal Council, the FDP.The Liberals received two seats at the Federal Council, while the Center Party received one seat. If the error passed undetected, the FDP.The Liberals would have received one seat, while the Center Party would have won two Federal Council seats.

<sup>98</sup> In paragraph 25 of the 1999 [OSCE Istanbul Document](#), OSCE participating States committed themselves “to follow up promptly the ODIHR’s election assessment and recommendations”. The follow-up of prior recommendations from the [Final Report on the 2015 Federal Assembly election](#) is assessed by the ODIHR EAM as follows: recommendation 6 was implemented fully, recommendations 2 and 4 were mostly implemented, and recommendations 3 and 5 were implemented partially. Recommendations 10, 12 and 20 from the [Final Report on the 2011 Federal Assembly elections](#) were fully implemented, recommendations 9, 11, 16, 17, 18, 19, 21 and 22 were mostly implemented, and recommendations 2, 6, 13 and 15 were partially implemented.

2. The rules of transparency pertaining to the disclosure of the financial interests of elected mandate holders could be strengthened in line with international standard
3. Limitations on campaign donations and expenditures should be considered. In line with international standards, explicit disclosure requirements for donations to political actors from state-owned or controlled companies should be introduced.
4. The cantonal legislation should extend to the Council of States elections the application of the federal campaign finance regulation, including the ban on anonymous and foreign donations and the disclosure requirements.
5. Consideration could be given to introducing a requirement for the campaigners to disclose their campaign expenditure in a disaggregated manner to further enhance transparency.
6. To enhance transparency, consideration could be given to introducing additional tools to the database of the Swiss Federal Audit Office, including enabling the consolidation of parties' accounts to include cantonal, local branches and bodies affiliated with them and identifying all donations from a single source to all campaigns.

### **Internet Voting**

7. The federal regulatory framework on internet voting should exclude any derogations of the cantons from the rules aimed to ensure the secrecy of the vote and integrity of results or prescribe a strict procedure for individual exemptions to the federal requirements.
8. In line with the OSCE Commitments and a prior ODIHR recommendation, the electoral legislation should be amended to explicitly allow for international and citizen observation of all aspects of the electoral process, including all stages of internet voting on federal and cantonal levels.
9. The law should prescribe minimum requirements on the composition, mandate and responsibilities of the election administration bodies in charge of internet voting to ensure independence from cantonal administration, particularly in terms of supervising the process and ensuring that the election (cryptographic) material is not compromised.
10. In line with international standards, the law should mandate that the cantonal election management bodies are directly in charge of all critical election functions. Procurement processes for the outsourced internet voting services and software components should be carried out transparently.
11. Independent examiners should be recruited following an open and public recruitment process based on explicit criteria.
12. Consideration should be given to extending the examination by the Federal Chancellery to all supporting information and communication technologies that affect internet voting and consolidation of election results from the various voting channels, in line with international standards.

### **Election Accessibility for Persons with Disabilities**

13. To guarantee full and effective implementation of the political rights of persons with disabilities, the legislation should be amended in line with the standards of non-discrimination enshrined in the Convention on the Rights of Persons with Disabilities, including on indirect discrimination, denial of reasonable accommodation and ensuring the right and access to a legal remedy.
14. The federal law should explicitly prescribe voting procedures, facilities and materials that enable voters with disabilities to independently acquire election-related information and to vote independently.
15. Federal legal provisions that result in the disenfranchisement of persons with intellectual disabilities should be reviewed, and a system of supported decision-making should be developed and implemented in line with international standards.
16. To ensure that candidates with disabilities enjoy equal campaign opportunities, consideration should be given to providing financial support to reduce disability-related costs. Such expenses could be covered by insurance or public subsidies to parties that prove their inclusiveness or by means of a dedicated public fund.
17. The authorities and other relevant stakeholders should provide accessible voter education materials, including internet voting instructions in formats accessible for persons with disabilities, sign language interpretation and plain language text.

### **Voting, Counting and Tabulation of Election Results**

18. In order to maintain the trust of the electorate in the integrity of election results, authorities should conduct comprehensive testing of voting, counting and tabulation and co-ordinate the operation of the results reporting systems with the cantonal administrations well in advance of elections.



## ANNEX: FINAL ELECTION RESULTS

### National Council<sup>99</sup>

Parties		Seats		
		Women	Men	All
1	Swiss People's Party (SVP)	12	50	62
2	Social Democratic Party (SP)	24	17	41
3	The Centre	9	20	29
4	FDP.The Liberals	12	16	28
5	Green Party	13	10	23
6	Green Liberal Party (GLP)	7	3	10
7	Protestant People's Party (EVP)	-	2	2
8	Federal Democratic Union (FDU)	-	2	2
9	Party of Labour/Solidarity (PDA/Sol)	-	-	-
10	Lega: Lega dei Ticinesi	-	1	1
11	Geneva Citizens' Movement	-	2	2
12	Feminist and Green-alternative groups (FGA)	-	-	-
13	Christian Social Party (CSP)	-	-	-
14	Swiss Democrats (SD)	-	-	-
15	Others	-	-	-
	<b>Total</b>	<b>77</b>	<b>123</b>	<b>200</b>

		per cent
Total number of voters on voter lists	5,583,221	
Number of voters who voted	2,604,984	46.6
Number of valid cast votes	2,554,482	
Number of invalid cast votes	50,502	1.9

### Council of States<sup>100</sup>

Parties	Seats		
	Women	Men	All
The Centre	6	9	14
FDP.The Liberals	2	9	11
Swiss People's Party (SVP)	1	5	6
Social Democratic Party (SP)	4	5	9
Green Party	2	1	3
Green Liberal Party (GLP)	1	0	1
MCR: Geneva Citizens' Movement	0	1	1
	<b>16</b>	<b>30</b>	<b>45</b>

<sup>99</sup> See the [election results for the National Council](#) and the [seat distribution](#).

<sup>100</sup> See the [election results for the Council of States](#); run-offs were held in nine cantons on 12 and 19 November.

## ABOUT ODIHR

The Office for Democratic Institutions and Human Rights (ODIHR) is 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 Summit Document). This is referred to as the OSCE human dimension.

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 democratisation. Today, it employs over 150 staff.

ODIHR is the lead agency in Europe in the field of **election observation**. Every year, it coordinates and organises the deployment of thousands of observers to assess whether elections in the OSCE region are conducted in line with OSCE commitments, other international obligations and standards for democratic elections and with national legislation. Its unique methodology provides an in-depth insight into the electoral process in its entirety. Through assistance projects, ODIHR helps participating States improve their electoral framework.

The Office's **democratisation** activities include the rule of law, legislative support, democratic governance, migration and freedom of movement, and gender equality. ODIHR implements a number of targeted assistance programmes annually, seeking to develop democratic structures.

ODIHR also assists participating States in fulfilling their obligations to promote and protect **human rights and fundamental freedoms** consistent with OSCE human dimension commitments. This is achieved by working with a variety of partners to foster collaboration, build capacity and provide expertise in thematic areas, including human rights in the fight against terrorism, enhancing the human rights protection of trafficked people, human rights education and training, human rights monitoring and reporting, and women's human rights and security.

Within the field of **tolerance** and **non-discrimination**, ODIHR provides support to the participating States in strengthening their response to hate crimes and incidents of racism, xenophobia, anti-Semitism and other forms of intolerance. 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.

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.

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 organisations.

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