PART 1

Democratic institutions are based on human rights and the rule of law, participatory and representative, accountable and trusted.
“Human rights are best respected in democratic societies, where decisions are taken with maximum transparency and broad participation,” as the OSCE’s participating States recognized over a decade ago. In 2019, ODIHR provided advice and legal expertise to strengthen the institutions and processes that ensure the rule of law and respect for human rights on which all true democracies are based.

Elections are a central element of the democratic process, and have been a key area of ODIHR’s work since the Office’s inception. By supporting participating States in improving their electoral practices and following up on ODIHR recommendations, the Office helps to restore waning public trust in the efficacy and value of democratic systems.

The following impact stories illustrate the many ways in which ODIHR assisted OSCE participating States in upholding their commitments to guarantee accountable parliaments, an independent judiciary, and genuine democratic elections.
Improving lawmaking and human rights-compliant legislation

Legislation and lawmaking practices across the OSCE repeatedly fall short of international human rights standards and OSCE commitments. ODIHR’s legal expertise did not only assist participating States in meeting their commitments and international obligations, but also clearly revealed that the quality of the legislation adopted is often a direct result of the extent to which the process was open, inclusive, and consultative.

Participating States frequently seek guidance on ways of strengthening their legislation and implementing better procedures for drafting and passing laws. To meet these needs, ODIHR both reviews individual pieces of legislation and issues comprehensive law-making assessment reports as part of its wider mandate to assist participating States in implementing their human dimension commitments, including those to ensure open and inclusive processes in lawmaking.

In 2019, the Office published 19 legal reviews, which led to improvements in draft or already adopted legislation and resulted in more comprehensive engagement with stakeholders.

ODIHR also prepared a number of opinions for Armenia in 2019, continuously engaging on the issues of equality before the law and political party legislation. Both pieces of legislation are expected to be stronger and more human rights-compliant following ODIHR’s support and feedback.

The review of draft legislation on judicial appointments in Georgia, followed by six months of monitoring the appointment process itself, led to extensive and well-informed discussions on judicial reform, and sparked important public debates on democratic issues in that country.

ODIHR’s legal reviews of amendments to political party legislation in Bulgaria and Mongolia resulted in better legislation on party funding and establishment practices and contributed to more pluralistic political environments. In Bulgaria, an agreement between the government and opposition improved the system of public financing as recommended by ODIHR. Following the Office’s advice, Mongolian lawmakers agreed to delay proposed constitutional amendments so that the issue could reconsidered.

Multi-angle engagement with stakeholders was a key to successful legislative support in 2019. Supporting lawmakers from the very beginning of their discussions on changes to the legal framework and offering continuous engagement that ranged from reviewing existing legislation, through indicating areas for improvement, to examining the resulting draft laws, shows concrete impact. For example, in Mongolia, a member of ODIHR’s Core Group of Experts on Political Parties’ visit in September led the Office to offer multiple forms of legal analysis, some of which were referred to in parliamentary debate that led to the law’s reconsideration.
Despite differences in the political and legal contexts, **lawmaking processes** face many similar problems throughout the OSCE, including legislation adopted through unnecessarily hurried processes or without regard for potential adverse impacts. In this context, ODIHR produced a preliminary lawmaking assessment for Uzbekistan, and has laid the groundwork for an assessment requested by Armenia.

To address common issues arising in legislative processes throughout the OSCE region, ODIHR has embarked on an ambitious initiative to gather international standards and good practices and consolidate these into clear guidelines on good lawmaking and high-quality public consultation. These guidelines, which are being drafted in consultation with a broad range of experts, will provide the benchmarks that lawmakers need to make their processes more effective, inclusive, consultative, accountable and transparent. They will build on ODIHR’s capacity in democratic governance, particularly in support of parliaments, citizen advocacy, promoting women’s participation in public and political affairs, and the inclusion of Roma and Sinti. The guidelines focus on crucial aspects of legislative processes, namely policymaking, impact assessments, public participation and law drafting, and will thus act as a catalyst for the adoption of quality, human rights-compliant laws.

“ODIHR’s guidance is having a positive impact on the development of Bulgarian democracy. The legal opinion reminds us of the fundamental principles of democracy and justice; and played an important role in the parliamentary debate on political party finance.”
— Kristian Vigenin, Vice-President, National Assembly of Bulgaria
Assisting the drafting and adoption of an election code

In the course of assisting the efforts of the authorities of Uzbekistan to follow up on ODIHR’s recommendations, the office provided comments and assessments on draft electoral legislation, which culminated in the adoption of a new Election Code.

The electoral legal framework of Uzbekistan underwent significant revision in 2019, with the adoption of a new Election Code in February 2019 and its promulgation in June 2019. The new Election Code was developed through a detailed process accompanied by substantive consultations with experts from ODIHR and the Council of Europe’s Venice Commission – which included a joint legal opinion – to help make significant improvements to the text. In addition to the legal review, ODIHR provided lawmakers with examples of good practice in this field, shared the texts of similar Codes from across the OSCE region, and facilitated contact between Uzbek authorities and other international organizations active in the field of elections.

The new Election Code unifies five different laws that regulate the conduct of presidential, parliamentary and local elections, and outlines guarantees of citizens’ suffrage rights. The Code also establishes the framework for activities of the Central Election Commission (CEC). The codification of several election-related laws into the unified Election Code enhances the clarity and accessibility of legislation, bringing them into line with previous ODIHR recommendations.

The codification has been largely welcomed as a positive step towards enhancing the legislation’s clarity and accessibility. The new Code includes a number of commendable changes, such as the removal of provisions for reserved seats in the lower chamber, the introduction of a maximum permissible deviation in the size of electoral districts and the establishment of a single electronic voter register.

The Uzbek authorities have pledged to invite ODIHR to present the final report from the 22 December 2019 parliamentary elections and to discuss the continuation, scope and pace of electoral reform, based on ODIHR’s recommendations.
“ODIHR played an important role in guiding those of us drafting the election law, throughout the process of its development and adoption. The ODIHR team helped to make sure that our practice of conducting elections is in line with universally accepted international election principles and standards.”

— Mirza-Ulugbek Abdusalomov, Chairperson of the Central Election Commission of the Republic of Uzbekistan
Across the OSCE, the legitimacy of representative democracy is facing challenges, fueled by growing public perception of parliaments as elitist, corrupt and lacking transparency. Parliaments are, likewise, male-dominated, with women making up only 28 per cent of legislators region-wide. Supporting democratic institutions is an integral part of ODIHR’s core mandate, though, and the Office worked throughout 2019 to strengthen inclusive and accountable parliaments, with special focus in Albania, Georgia and North Macedonia.

ODIHR assisted the parliaments of Albania and North Macedonia in becoming more gender-sensitive and enacting laws that are appropriate and useful for both women and men. This has resulted in two state-of-the-art Gender Action Plans developed for these legislatures. Building on similar efforts undertaken in Montenegro, ODIHR collaborated intensively with the OSCE Field Operations in Tirana and Skopje in 2019 to conduct consultations and assessments on the current level of gender sensitivity in parliamentary and legislative processes. ODIHR’s publication Making Laws Work for Women and Men: A Practical Guide to Gender-Sensitive Legislation was translated by the OSCE Field Operations into Albanian and Macedonian, allowing local stakeholders to benefit from ODIHR’s expertise.

A number of workshops in the two countries strengthened the capacities of both parliaments in the areas of gender mainstreaming and enhanced regional co-operation, culminating in the adoption of specific gender action plans. These newly adopted strategic documents represent a new era in democratic governance and parliamentary processes, as two of the first such plans anywhere in the OSCE region. They both address issues of gender equality, inclusion and efficiency in parliaments’ representative, legislative and oversight roles and in leadership processes, as well as the roles of these parliaments as public employers.

When working to strengthen the democratic role of parliaments, the promotion of codes of conduct within parliaments is an effective way to try to regain and increase public trust in their efficacy and transparency, as well as to prevent corruption. In order to advance parliamentary integrity standards and mechanisms, ODIHR assisted dedicated parliamentary committees in the parliaments of Georgia and North Macedonia in 2019 by offering technical expertise and facilitating knowledge-sharing in the development and enforcement of codes of conduct for members of parliament. ODIHR’s support facilitated the adoption of two new parliamentary codes of conduct in Georgia and North Macedonia, further promoting their subsequent implementation by drafting dedicated manuals and regulations based on international good practices.

ODIHR’s work with parliaments on gender sensitivity, inclusion, and parliamentary integrity subsequently broadened in Albania, Georgia, and North Macedonia, and led to the initiation of a
“We are improving the laws on gender equality, but we aim to make sure that all laws have a gender perspective and have a good effect on women and men in Albania. This is not only a job of women parliamentarians, but of parliament as an institution.”

— Vasilika Hysi, Deputy Speaker of the Albanian parliament

number of wider discussions on improving overall parliamentary efficiency. Governments cannot guarantee parliamentary inclusion without ensuring that all groups are represented and consulted in political and parliamentary processes. Parliaments represent the people and must deliver to the people, both as legislative bodies and as employers. Addressing the issues discussed above contributes to more efficient, inclusive and accountable overall political and democratic processes, which, ultimately, should deliver better laws, policies and services for all.
Respect for the rule of law and independence of the judiciary are cornerstones of the OSCE, and the basis of many commitments. However, there are worrying trends in this area. Legislative initiatives in many participating States have paved the way for the executive and legislative branches to take greater control of the judiciary. This threatens the independence of judges and, more broadly, the separation of powers. Many of these legislative changes have been introduced through expedited means that did not allow an open, inclusive and consultative process. In 2019, ODIHR continued to encourage national authorities to develop and promote legislation that complies with international standards and respects the independence of the judiciary. This included the provision of legal opinions to draft legislation and the organization of a series of expert roundtables in Poland.

The rule of law is a prerequisite for democracy, and an essential element of any fair trial. It requires judicial independence to be guaranteed through law and respected in practice, which includes both respect for judges’ guaranteed tenure and the protection of judges from any form of political influence in their decision-making. In its follow-up to legal opinions published between 2017 and 2019 on legislative initiatives in Poland related to the judiciary, ODIHR monitored the impact of new laws and other relevant developments, including a series of disciplinary procedures initiated against judges who voiced concerns over compliance of the new laws with rule of law standards.

In 2019, ODIHR organized three expert roundtables that provided a platform to assess the impact of the legal changes relating to the judiciary. They were conducted in co-operation with a number of regional and international organizations working on the rule of law, including the Office of the High Commissioner for Human Rights, the Council of Europe, GRECO, the Consultative Council of European Judges, the European Association of Judges, and the European Network of Councils for the Judiciary, as well as the international community.

ODIHR’s support to the rule of law in Poland in 2019 aimed at ensuring it was both timely and useful. The roundtables, in particular, enabled the Polish legal community and civil society to assess the impact of the legal changes through discussions with other experts and practitioners, and convey their concerns to representatives of the international community. Overall, the roundtables helped create a network of institutions and individuals committed to upholding the rule of law and sharing information and analysis.

The roundtables provided a platform previously missing for stakeholders to jointly develop instruments that allow local civil society organizations, members of the judiciary, and the international community to promote respect for the rule of law in Poland.
“ODIHR’s commendable work bringing together different organizations and bodies, including representatives of the European judiciary, in intense and productive roundtables and providing high quality technical expertise in meticulous legal opinions are concrete examples of the Office’s devotion to its crucial mandate to promote the principles of democracy and rule of law. I am a privileged witness of the considerable impact of their labour.”

— José Igreja Matos, President of the European Judges Association (EAJ) and Vice-President of the International Judges Association (IAJ)
1.5 Supporting the fair and transparent appointment of judges

Throughout the OSCE, public trust in judicial systems is falling, at the same time as a marked lack of understanding of appropriate procedures for selecting and appointing judges. In Georgia, widespread concerns about the independence of the judiciary increased after the nomination of a group of judges, which was later halted following political protests. In early 2019, legislation on the appointment of Supreme Court judges was amended and a new appointment process began. The amendments increased the minimum number of Supreme Court judges from 16 to 28, and changed the 10-year terms to lifetime appointments for the first time in Georgian history.

Drawing on its Kyiv Recommendations for Judicial Independence, ODIHR works with participating States to create clear laws that define procedures and criteria for judicial selection to ensure transparency. At the request of the Georgian Public Defender, ODIHR provided a legal opinion in April 2019 and advised the Georgian authorities about the need to address serious shortcomings in the legislation related to the appointment of Supreme Court judges. Later the same month, the Georgian Parliament passed the legislation and set the ground for a new appointment procedure. The final amendments addressed some of ODIHR’s recommendations.

ODIHR subsequently launched a new and innovative exercise to monitor the judicial appointment process, following a request from the Georgian Public Defender to do so. The overall aim of this exercise was to strengthen judicial independence in Georgia and to provide an independent assessment of the appointment process and its compliance with OSCE commitments, international standards and guiding principles on judicial independence. An expert monitoring team, comprising one international and two national monitoring officers, were present at all the hearings of candidates for the Supreme Court, conducted by the High Council of Justice of Georgia, and the subsequent appointment procedures in the Georgian Parliament, from June to December. At the end of this process they issued two reports summing up their observation and assessment.

Following the completion of the nomination phase and publication of the first monitoring report, but before the beginning of the appointments in Parliament, ODIHR undertook a mission to Georgia and presented the main findings to numerous stakeholders. The report and this visit directly contributed to a more structured and organized process in the second phase of the appointments procedure.

The combination of legal reviews and monitoring activities by a neutral, external organization is a valuable tool for ODIHR to contribute to judicial independence and public awareness of its importance, while encouraging compliance with the fundamental principles of rule of law. This approach will also be valuable for a number of OSCE field operations and civil society organizations across the OSCE region that regularly observe challenges in judicial selection and appointment processes.
“In 2019, the selection process of the Supreme Court candidates was the most important topic for the democratic development and human rights protection in Georgia, and OSCE/ODIHR had crucial impact on it. ODIHR managed to conduct tremendous work throughout this process, providing us detailed recommendations that we implemented. The monitoring findings and recommendations will help the Georgian judicial system in the future and will be the basis for further reforms and improvements.”

— Nino LOMJARIA, Public Defender of Georgia
1.6 Strengthening the observation of election dispute resolution

All citizens have the right to participate in government, directly or by representatives chosen through genuine democratic elections. However, conflicts can arise even in the most democratic electoral process. OSCE commitments and other international obligations and standards not only guarantee electoral rights, but in such cases also provide guidance when electoral disputes occur. The rules and procedures in place for any given election should allow voters to challenge violations through an effective system of election dispute resolution that addresses their concerns within reasonable deadlines and takes into consideration due process guarantees. Ensuring access to legal redress during the electoral process is important to increase public trust in elections, contribute to the legitimacy of the government, and protect voters’ rights.

ODIHR’s most visible flagship activity continues to be observation and assessment of elections throughout the region. In 2019, ODIHR observed 15 elections and provided comprehensive assessments and recommendations on where states could improve their elections. ODIHR’s election observation methodology takes a comprehensive, long-term view of electoral processes, and electoral dispute resolution is a critical element of this. While assessment of election-related complaints and appeals procedures was already contained in ODIHR’s general election observation manuals, in 2019 the Office issued a new publication, the Handbook for the Observation of Election Dispute Resolution. This consolidates and refines established practice for observing election dispute resolution. It informs and provides guidance to ODIHR observers, as well as other international and citizen observer organizations, about essential principles and international good practice related to the handling of electoral disputes.

The handbook applies to all formats of ODIHR observation activity, from full-scale Election Observation Missions that follow the entire election process, to Election Expert Teams, which generally only examine selected aspects of an election. It combines explanations of the guiding principles and international standards for election dispute resolution with practical advice for observers on how to assess the handling of such disputes.
“In addition to being a useful instrument for election observers, the handbook is also an excellent self-assessment tool for Central Election Commissions, law-enforcement, judges and lawyers involved in handling of election-related disputes”

— Tamar Zhvania, the chairperson of the Central Election Commission of Georgia.

However, the handbook is primarily aimed at legal analysts, who are typically tasked with assessing a country’s system for the resolution of electoral disputes, as well as other mission members who may be involved in the observation of election disputes in their respective thematic and geographic areas. However, other international and citizen observer organizations are also using the handbook to help them evaluate the resolution of election disputes. It likewise provides valuable information to other audiences with links to the topic, such as election practitioners, judges, lawyers, civil society activists and academics.

Development of the handbook strengthened ODIHR’s engagement with the expert community, while consolidating the methodology for observing the handling of election disputes has reaffirmed the role of international election observation as a human rights exercise as well as a conflict prevention and early warning mechanism. Observing this key aspect of the election process contributes to further protecting and promoting the fundamental rights and freedoms necessary for ensuring democratic elections.

### Election observation in 2019

<table>
<thead>
<tr>
<th>Country</th>
<th>Election type</th>
<th>Election date</th>
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<tbody>
<tr>
<td>Moldova</td>
<td>Parliamentary</td>
<td>24 February</td>
</tr>
<tr>
<td>Ukraine</td>
<td>Presidential</td>
<td>31 March, 21 April</td>
</tr>
<tr>
<td>Slovakia</td>
<td>Presidential</td>
<td>16 March, 30 March**</td>
</tr>
<tr>
<td>Estonia</td>
<td>Parliamentary</td>
<td>3 March**</td>
</tr>
<tr>
<td>North Macedonia</td>
<td>Presidential</td>
<td>21 April, 5 May</td>
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<tr>
<td>Lithuania</td>
<td>Presidential</td>
<td>12 May, 26 May**</td>
</tr>
<tr>
<td>Spain</td>
<td>Early parliamentary</td>
<td>28 April**</td>
</tr>
<tr>
<td>Albania</td>
<td>Local</td>
<td>30 June</td>
</tr>
<tr>
<td>Kazakhstan</td>
<td>Early presidential</td>
<td>9 June</td>
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<tr>
<td>Ukraine</td>
<td>Early parliamentary</td>
<td>21 July</td>
</tr>
<tr>
<td>Greece</td>
<td>Early parliamentary</td>
<td>7 July**</td>
</tr>
<tr>
<td>Poland</td>
<td>Parliamentary</td>
<td>13 October*</td>
</tr>
<tr>
<td>Belarus</td>
<td>Early parliamentary</td>
<td>17 November</td>
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<tr>
<td>Romania</td>
<td>Presidential</td>
<td>10 November**</td>
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<tr>
<td>Uzbekistan</td>
<td>Parliamentary</td>
<td>22 December</td>
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Not starred denotes a full-scale election observation mission comprised of a core team of experts, long-term observers and short-term observers

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

** denotes either an election assessment mission or an election expert team comprised only of a core team of experts
Addressing electoral recommendations from a gender perspective

For an election to meet OSCE commitments, international standards and good practice, there must be real opportunities for the equal participation of women and men. The involvement of women in elections is one of the prerequisites for their meaningful participation in decision-making processes and the subsequent development and implementation of policies that make a difference to their lives. With this in mind, ODIHR works to increase the participation of women in elections and electoral follow-up, and monitors progress made by participating States.

As part of its engagement in the Western Balkans under the auspices of an EU-funded project to strengthen election observation follow-up, ODIHR is concentrating on recommendations related to election administration, voter registration and media coverage during election campaigns. The Office focuses especially on engaging politically under-represented groups, including women, minorities and people with disabilities.

In October 2019, the project organized a regional conference in Sarajevo to discuss the barriers affecting the electoral participation of women in the region and to identify solutions, including through awareness raising and the greater involvement of women in elections and electoral reform processes. By engaging with relevant institutions and women’s organizations, this event served as the basis for a number of future national events. This gender focus provides guidance to all those involved in electoral reform, including civil society organizations, to enhance the participation of women as electoral administrators, voters, and candidates.

Overall, ODIHR’s activities in this area are increasing the degree to which women are given real opportunities to become leaders and decision makers in election administration, as well as ensuring that election management bodies take gender considerations into account in voter education campaigns and many other aspects of their work.

This ongoing project will continue to address the disadvantages women may face when registering as voters, including not only voter registration systems and procedures, but also the effectiveness and outreach of public information about the right to vote. ODIHR’s efforts also support women’s equal access to media and pay careful attention to the quantity and quality of media coverage of women candidates, for example whether women are presented in a manner that promotes public confidence in their capacity as leaders.
“We have refined our approach at ODIHR to ensure we are doing all we can to support local stakeholders to promote women’s participation in elections in the Western Balkans. ODIHR’s recommendations in this area include calls for greater participation in electoral and other decision-making bodies, equitable media coverage during campaigns, and parity for electoral candidacy, as well as addressing issues such as group or family voting.”

— ODIHR Director Ingibjörg Sólrún Gísladóttir.
All OSCE participating States have committed to promptly following up on ODIHR election assessments and recommendations.

If electoral recommendations are not comprehensively considered and effectively addressed, there is a risk that electoral shortcomings and vulnerabilities will persist and indeed increase. This poses a risk to key human rights, and may additionally have a detrimental impact on the perceived credibility of the entire electoral process, contributing to security concerns at both national and regional levels.

Over the last two decades, the Western Balkans region has made progress in adopting democratic norms and institutions, including the conduct of democratic elections. However, in the course of its recent election observation activities in the region, ODIHR has noted varied degrees of implementation of OSCE commitments and other standards for democratic elections. ODIHR’s work within an EU-funded project in the region seeks to address this.

ODIHR has made a number of recommendations to assist OSCE participating States in bringing their electoral legislation and practice into closer alignment with OSCE commitments and international standards. While there has generally been greater engagement and inclusive dialogue with political contestants and civil society in developing and introducing electoral reforms, it is evident that further support is needed for the implementation of electoral recommendations. This includes assistance to increase the political will for reform, support for sustainable electoral-management capacities, the promotion of public consultation and inclusion, reference to OSCE commitments and other international obligations and standards, the use of national and international expertise, and support in setting up plans, public reporting and review mechanisms.

ODIHR’s public database of electoral recommendations (https://paragraph25.odihr.pl/) is a key tool to encourage reform in this area. It includes some 750 recommendations from 30 observation reports, as well as up-to-date information on the status of their implementation. The database has inbuilt accessibility features for people with visual impairments.

Stakeholders, both governmental and non-governmental, make use of the database to assess progress made and hold democratic institutions accountable. The database presents ODIHR’s recommendation from the previous observation reports, current activities undertaken to support follow-up to each specific recommendation, as well as final evaluation of implementation once the subsequent observation report is published.

ODIHR plans to extend the database to include all 57 OSCE participating States after the completion of the project in June 2020.
“The quality of the legal framework is key to free, fair and democratic elections. ODIHR’s past observation recommendations, and the new easy to use database to access them, provided valuable input for improving our legislative framework in the recent changes to the Electoral Code.”

— Renata Deskoska, Minister of Justice, North Macedonia