



Office for Democratic Institutions and Human Rights

FEDERAL REPUBLIC OF GERMANY

ELECTIONS TO THE FEDERAL PARLIAMENT (BUNDESTAG)

24 September 2017

OSCE/ODIHR Election Expert Team
Final Report



Warsaw
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**FEDERAL REPUBLIC OF GERMANY
PARLIAMENTARY ELECTIONS
24 September 2017**

OSCE/ODIHR Election Expert Team Final Report¹

I. EXECUTIVE SUMMARY

Following an invitation from the Permanent Mission of the Federal Republic of Germany to the OSCE and based on the findings and conclusions of a Needs Assessment Mission deployed from 12 to 14 July, the OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR) deployed an Election Expert Team (EET) for the 24 September parliamentary elections. The OSCE/ODIHR EET focused on particular aspects related to the legal framework, campaign finance and the campaign environment of the elections.

Germany is a federal republic composed of 16 states (*Länder*). Legislative power is shared between the Federal Parliament (*Bundestag*) and the State Parliaments (*Landtage*). On 23 January 2017, the Federal President called the elections to the *Bundestag* to be held on 24 September. A total of 42 parties and 111 independent candidates contested the elections. Members of the *Bundestag* are elected for a four-year term through a mixed electoral system combining proportional representation and a majoritarian element.

The legal framework is robust and constitutes a solid basis for the conduct of genuine and democratic elections. The latest major legal reform took place ahead of the 2013 federal elections when changes were made to the electoral system and complaints and appeals process. Some OSCE/ODIHR EET interlocutors expressed concerns that the electoral system could lead to an ever-expanding *Bundestag*, potentially affecting the efficiency of the legislative body.

The federal legislation provides for equal treatment of all political parties by public authorities during the campaign and most of the political parties the OSCE/ODIHR EET met with were satisfied with conditions for campaigning. There is no official campaign period and parties can campaign at any point ahead of the elections. Political parties campaigned mainly through door-to-door canvassing, assemblies, distribution of leaflets, placement of posters and of advertisements in media, as well as in the social media. The campaign was largely peaceful, although some incidents were reported ranging from defacing of posters and disruption of rallies to assaults, threats and damage to party cars and premises.

The party finance framework allows political parties to compete on a basis of equal basis before the law and by the authorities, and enjoys the confidence of most electoral stakeholders. However, particular measures could be developed to improve transparency, integrity and accountability of the process. The legislation does not establish limits to the amounts parties may raise or spend during the campaign, and there are no rules on third-party and independent candidates campaigning. Parties are required to report annually to the office of the President of *Bundestag* which acts as the oversight body. A number of OSCE/ODIHR EET interlocutors argued that more timely reporting on campaign expenses could contribute to transparency.

Any eligible voter can submit an election-related complaint to the election administration. In general, complaints are filed with the committee that is hierarchically higher than the one that

¹ The English version of this report is the only official document. An unofficial translation is available in German.

issued the disputed act. Decisions of the Federal Election Committee can be challenged before the Federal Constitutional Court. Legislation does not establish any timeframe for decisions on post-election complaints. In practice, resolution can take considerable time. This raises questions on the efficiency and timeliness of protection of electoral rights and is at odds with OSCE commitments as well as other international obligations and standards.

The election legislation states that polling shall be public and grants the public access to all stages of the process. However, it makes no specific provision for the presence of international observers which is contrary to paragraph 8 of the 1990 OSCE Copenhagen Document.

II. INTRODUCTION AND ACKNOWLEDGEMENTS

Following an invitation from the Permanent Mission of the Federal Republic of Germany to the OSCE and based on the findings and conclusions of a Needs Assessment Mission deployed from 12 to 14 July, the OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR) deployed an Election Expert Team (EET) for the 24 September parliamentary elections. The OSCE/ODIHR EET consisted of three experts drawn from three OSCE participating States.

The OSCE/ODIHR EET focused on particular aspects related to the legal framework, campaign finance and the campaign environment of the elections. The report is therefore limited in scope and does not offer an overall assessment of the electoral process. The specific areas under review were assessed for their compliance with OSCE commitments and other international obligations and standards for democratic elections, as well as with national legislation. In line with the OSCE/ODIHR methodology, the OSCE/ODIHR EET did not undertake a comprehensive and systematic observation of the election day procedures. This final report should be read in conjunction with the 2017 OSCE/ODIHR NAM report and previous ODIHR reports, which provide additional detail on the electoral process in Germany.²

The OSCE/ODIHR EET wishes to thank the Federal Foreign Office, the Ministry of Interior, the Constitutional Court and the election administration for their co-operation and assistance, as well as to express gratitude to representatives of political parties, media, civil society and other interlocutors for sharing their views.

III. BACKGROUND

Germany is a federal republic composed of 16 states (*Länder*). Legislative power is shared between the Federal Parliament (*Bundestag*) and the State Parliaments (*Landtage*). *Länder* participate in the legislation at the federal level through the Federal Council (*Bundesrat*), with its members delegated by the respective state governments. Executive power is vested in the Federal Cabinet led by the Federal Chancellor, who is elected by the parliamentary majority on the proposal of the Federal President. The Federal President is elected by a Federal Convention, which consists of members of the *Bundestag* and *Länder* parliaments, as well as members elected by the *Länder* parliaments. Members of the *Bundestag* are elected for a four-year term through a mixed electoral system combining proportional representation and a majoritarian element.

Following the federal elections of 22 September 2013, five political parties were represented in the *Bundestag*: the Christian Democratic Union (*Christlich Demokratische Union Deutschlands*; CDU),

² See [all previous OSCE/ODIHR reports on Germany](#).

the Social Democratic Party (*Sozialdemokratische Partei Deutschlands*; SPD), the Left (*Die Linke*), Alliance '90/the Greens (*Bündnis 90/Die Grünen*), and the Christian Social Union of Bavaria (*Christlich-Soziale Union in Bayern*; CSU). While the CDU and CSU are separate political entities, they co-operate at the federal level and together represented the largest political bloc in the outgoing *Bundestag* with 309 seats. Both parties joined with the SPD, the second-largest party, with 193 seats, to form a grand coalition in support of the outgoing government. The opposition was represented by the *Die Linke* and the Alliance '90/the Greens with 64 and 63 seats, respectively.

A total of 42 parties contested the 2017 federal elections, including the parties represented in the *Bundestag*, as well as the Free Democratic Party (*Freie Demokratische Partei*; FDP) and the Alternative for Germany (*Alternative für Deutschland*; AfD), both of which have members in the *Landtage*.³ In addition, 111 independent candidates ran in 85 constituencies.

The OSCE/ODIHR previously deployed an Election Expert Team (EET) for the 2013 parliamentary elections. The 2013 EET assessed the legal framework and party and campaign finance regulations. The EET final report concluded that overall, the legal framework provides a solid basis to conduct genuine elections and that the party financing framework allows political parties to compete based on equal treatment before the law and by the authorities.

IV. LEGAL FRAMEWORK

The legal framework regulating elections to the *Bundestag* consists primarily of the 1994 Basic Law (constitution), the 1993 Federal Electoral Act (FEA), the 2002 Federal Electoral Regulations (FER), the Law on the Scrutiny of Elections, the 1994 Political Parties Act (PPA) and the 1999 Law on Election Statistics. Relevant provisions of the 2002 Civil Code, the 1998 Criminal Code and the 1978 Law on Assemblies and Parades are also applicable. Jurisprudence of the Federal Constitutional Court (FCC) has significantly shaped the electoral legal framework over the years.⁴

The latest major legal reform took place ahead of the 2013 federal elections when significant changes were made to the electoral system.⁵ In addition, the reform included amendments pertaining to complaints and appeals.⁶ Since then, only some minor changes were made in the legal framework with regard to postal voting and prohibition of filming in polling stations. Also, a Law on the Exclusion of Anti-constitutional Parties from Party Financing was adopted on 23 June 2017 to prohibit public funding to parties that are declared unconstitutional by the FCC.⁷

The legal framework is robust and constitutes a solid basis for the conduct of genuine and democratic elections. However, some OSCE/ODIHR EET interlocutors expressed concerns that the

³ A total of 4,828 candidates, including 1,400 women, were registered for the elections.

⁴ In 2008 and 2012 the FCC ruled that elements of the electoral system such as [the 'negative voting weight'](#) and [the number of overhang mandates](#) respectively were unconstitutional. In 2012, it ruled on [the requirements for the right to vote of Germans living abroad](#).

⁵ The changes pertained to the method of allocation of seats and came into effect to address the disproportionality caused by components of the electoral system.

⁶ The possibility of appeal against a decision denying a party eligibility to contest the election was granted, and the requirement to collect signatures in order to dispute with the FCC a *Bundestag* decision on post-election complaints was abolished.

⁷ According to law, parties that “by reason of their aims or the behaviour of their adherents, seek to undermine or abolish the free democratic basic order or to endanger the existence of the Federal Republic of Germany shall be unconstitutional.” On 17 January 2017, following a complaint by the *Länder* governments represented in the upper house of the parliament (*Bundesrat*) on the far-right National Democratic Party (NPD) to be declared unconstitutional, the FCC [decided](#) that “there are no indications that the party will succeed in achieving its anti-constitutional aims.”

electoral system, and specifically the compensation mechanism, could lead to an ever-expanding *Bundestag*, potentially affecting the efficiency of the legislative body.⁸ Furthermore, some OSCE/ODIHR EET interlocutors voiced concerns over the system of postal voting.⁹

V. ELECTION CAMPAIGN

The freedoms of association and peaceful assembly are guaranteed by the Basic Law. The Law on Assemblies and Parades regulates the organization of outdoors assemblies and notification procedure to the competent authorities.¹⁰ The PPA mandates equal treatment of all political parties by public authorities and establishes the principle of ‘gradual equality’ according to the results obtained in previous parliamentary elections.

Federal legislation does not contain detailed provisions on election campaigns; such activities are largely regulated at *Länder* level. Municipal authorities can also issue ordinances regarding assemblies and placement of posters, and these ordinances may differ significantly even within the same *Länder*. Most of the political parties the OSCE/ODIHR EET met with were satisfied with conditions for campaigning, including with access to venues. The AfD informed the OSCE/ODIHR EET that it had been subject to unequal treatment by the authorities and that while such attitudes had been disruptive to their campaign, they expressed trust in the judiciary.¹¹

There is no official campaign period and parties can campaign at any point ahead of the elections. In practice, most of the parties and candidates began their campaign activities following candidates’ registration. Political parties campaigned mainly through door-to-door canvassing, assemblies, distribution of leaflets, placement of posters and of advertisements in media. Contestants were also actively using social media. Prominent topics of the campaign were the economy, immigration, refugee issues, social welfare, pensions, increasing housing costs and taxation. Several statements by the AfD candidates have stirred controversy, including allegations of racism, or having negatively presented the country’s post-war culture of remembrance of the Holocaust.¹² Comments

⁸ The FEA provides that the *Bundestag* shall consist of 598 members, subject to variations, which, in practice, due to the electoral system, means that the actual number may be larger. The newly-elected *Bundestag* has 709 members.

⁹ Citizens can avail themselves of this option without having to state a valid reason and the number of postal votes has increased since last elections. Some 28.6 per cent of the voters voted by post which is an increase of 4.3 per cent compared to 2013 parliamentary elections. A number of OSCE/ODIHR EET interlocutors from the election administration and the judiciary argued that the postal voting may compromise the integrity of the process and in particular the secrecy of the vote, and should therefore be an exception.

¹⁰ According to the legislation, indoor assemblies do not require notification or permission.

¹¹ On 5 September 2017, the mayor of Nuremberg denied the AfD the right to use the municipal facilities. On 6 September, the party filed a complaint with the administrative court which adopted a [decision](#) on 7 September stating that access should be granted by the local authorities. Previously, on 16 March 2017, following a Facebook post by the mayor of Frankfurt suggesting not to invite AfD to a public meeting because the image of the city would be harmed, the Administrative Court of Hesse in its [decision](#) of 12 July 2017 requested the post to be removed and not reposted. On 7 November 2015, following a complaint by the AfD, the FCC on similar grounds [decided](#) that the Ministry of Education should remove a quote from its website stating that “a red card should be given to the AfD because of their right-wing propaganda and hate speech.” ODIHR EET interlocutors from the AfD interlocutors stated that on several occasions citizens and establishments such as hotels refused to rent their premises to the party.

¹² On 29 May 2017, a prominent AfD figure made [comments](#) that were widely characterized as racist. On 18 January 2017, an AfD *Länder* leader [spoke](#) against the German culture of memorialization and more recently, on 15 September 2017, an AfD candidate [asked](#) for re-evaluation of Germany’s World War II actions.

against the Minister of Integration made by the AfD during the campaign are currently being investigated by the public Prosecutor of Thuringia.¹³

Some OSCE/ODIHR EET interlocutors characterized the campaign as lackluster and noted the absence of debate on certain topics, such as the sustainability of the German industrial model, international relations and environmental issues. Most of political parties that the OSCE/ODIHR EET met with expressed satisfaction with their access to media, including to those privately owned. The campaign was largely peaceful, however, there were a number of incidents ranging from defacing of posters and disruption of rallies to assaults, threats and damage to party cars and premises. The AfD and *Die Linke* were the targets of most of the serious incidents.¹⁴ The AfD informed the OSCE/ODIHR EET that the frequency and the severity of these incidents led the party to cancel a number of campaign activities.

VI. PARTY AND CAMPAIGN FINANCE

The Basic Law provides that political parties must publicly account for assets and sources of income, and use of their funds. The main law regulating campaign finance is the PPA, which regulates public and private contributions, reporting, oversight and sanctions. In general, the legislation lacks detailed provisions regulating campaign finance. Some parties have more detailed internal regulations in this matter.¹⁵

The legislation does not establish limits on the amounts parties may raise or spend during the campaign, and there are no rules on third-party and independent candidates campaigning. The President of the *Bundestag* receives financial reports and acts as the oversight body. The party finance framework allows political parties to compete on an equal basis before the law and by the authorities, and enjoys the confidence of most electoral stakeholders. However, particular aspects could be developed to improve transparency, integrity and accountability of the process.

A. FUNDING SOURCES AND EXPENDITURES

The PPA provides for both private and public funding to political parties. Parties may receive membership fees, contributions by elected officials, citizens' donations, revenue from events, publications and income-generating activities, donations from private legal entities, and income from assets. Based on votes and seats gained in the last elections and on private donations received, parties are entitled to annual support from the state.¹⁶ In addition, during election campaigns, parties receive indirect public donations, including free media airtime on public broadcasters.¹⁷

¹³ Following a [statement](#) by the Minister of Integration on 15 May that "German culture is beyond the language not identifiable", on 29 August the AfD candidate [said](#) that "she should be disposed of in Anatolia."

¹⁴ According to various [media reports](#) and based on police sources, a week before the election day, over 2,000 election-related incidents occurred during the campaign, mostly targeting the [AfD](#) and [Die Linke](#). [Other reports](#) indicate that the number of [politically motivated incidents has increased](#) compared to the federal elections in 2013. According to the OSCE/ODIHR EET interlocutors from the Ministry of Interior and the police, the official statistics on the politically motivated incidents will be ready in 2018.

¹⁵ For instance, the Left establishes internal party bodies for oversight of the party finances, while the Greens internally regulate the sponsorships and publishing of the income.

¹⁶ Parties that have received 0.5 per cent of valid votes in federal elections or 1 per cent of valid votes in *Länder* parliament elections qualify for public funding. The 2015 amendments to the PPA increased the amount of state subsidy to EUR 0.83 per vote received. Moreover, parties receive an annual amount of EUR 0.45 for each euro received from citizens for donations up to EUR 3,300. According to the legislation, public funding cannot exceed the funds that the party raises from private sources.

¹⁷ Parties participating in elections receive free air-time for advertisement in proportion to their representation in the *Bundestag*.

There are no limits to the value of donations to political parties.¹⁸ The PPA prohibits donations from public corporations, parliamentary groups, political foundations and non-profit organizations. However, the legislation lacks provisions regulating donations to independent candidates. Anonymous donations over EUR 500 are prohibited as are donations in cash over EUR 1,000.¹⁹

In July 2017, the *Bundestag* adopted a constitutional amendment to exclude parties, whose aims and practices undermine and endanger the democratic order of the country, from public funding.²⁰ Despite being declared unconstitutional in its aims and actions, the NPD was not banned as a party. It, however, lost access to public funding following the FCC ruling based on the *Bundestag* decision.

There are no limits set to campaign expenditures for parties and candidates.²¹ According to OSCE/ODIHR EET interlocutors, the bulk of campaign expenses were allotted to media advertising, including on social media. The legislation lacks provisions regulating campaign activities by third-parties.²² Some OSCE/ODIHR EET interlocutors pointed to the example of an association (Association for the Preservation of the Rule of Law and Civic Freedoms) that produced and distributed about 600,000 copies of the weekly newspaper "*Deutschland-Kurier*", billboards, posters and online advertisements specially designed for the *Bundestag* election, effectively campaigning on behalf of AfD.²³

Consideration could be given to providing a regulation of any campaigning by third-parties to ensure transparency and accountability of the electoral process.

B. REPORTING AND OVERSIGHT

All parties are required to submit consolidated annual financial reports, audited by a certified auditor or auditing firm, to the President of *Bundestag*.²⁴ According to the law, parties' campaign-related donations and expenditures are reported through annual financial reports. No separate reporting either during or shortly after an electoral period is required, except for donations

¹⁸ Article 3 of [Recommendation Rec\(2003\)4 of the Council of Europe's Committee of Ministers](#) to member states on common rules against corruption in the funding of political parties and electoral campaigns stipulates that "States should consider the possibility of introducing rules limiting the value of donations to political parties."

¹⁹ The 2010 Joint Venice Commission and OSCE/ODIHR [Guidelines on Political Party Regulation](#) recommends including a limit on the aggregate allowable amount of all anonymous contributions.

²⁰ According to the PPA, parties that "by reason of their aims or the behaviour of their adherents, seek to undermine or abolish the free democratic basic order or to endanger the existence of the Federal Republic of Germany shall be unconstitutional". On 17 January 2017, following a complaint by the *Länder* governments represented in the *Bundesrat* on the far-right National Democratic Party (NPD) to be declared unconstitutional, the FCC decided that while the party is unconstitutional in its actions "there are no indications that the party will succeed in achieving its anti-constitutional aims."

²¹ Article 9 of [Recommendation Rec\(2003\)4 of the Council of Europe's Committee of Ministers](#) to member states on common rules against corruption in the funding of political parties and electoral campaigns stipulates that "States should consider adopting measures to prevent excessive funding needs of political parties, such as, establishing limits on expenditure on electoral campaigns".

²² [The 2015 OSCE/ODIHR Handbook on Observation of Campaign Finance](#) recommends that "Third parties should be free to fundraise and express views on political issues as a means of free expression, and their activity should not be unconditionally prohibited. However, it is important that some form of regulation be extended to third parties that are involved in the campaign, to ensure transparency and accountability."

²³ Lobby Control, a prominent German civil society organization promoting transparency and lobby regulation, [in its 2017 report](#) on AfD campaign finance, estimates that the association spent over six million EUR campaigning in support of the AfD.

²⁴ Parties' annual reports can be found at the following [link](#).

exceeding EUR 50,000 which must be reported immediately.²⁵ Sources of donations totaling above EUR 10,000 within one year must be included in the annual report. Parties are also required to report on the amount of donations, without providing the name of the donor, for contributions above EUR 3,300 per citizen.²⁶ Annual reports covering campaign-related expenses for these elections will be made public in about one year.²⁷

A number of OSCE/ODIHR EET interlocutors argued that more timely reporting on campaign expenses could contribute to transparency, and some raised concerns about the high limit for immediate reporting.²⁸ In addition, OSCE/ODIHR EET interlocutors indicated the need to extend reporting obligations to sponsorships, in particular those made by private corporations, such as the motor industry.²⁹

Consideration could be given to requiring the disclosure of financial reports, including campaign finance records, in a timely manner with their subsequent publication, and ensuring that these requirements apply to all electoral contestants in line with international good practice. To strengthen transparency and accountability of the campaign finance framework, consideration could be given to lowering the reporting threshold for the immediate disclosure of donations.

The President of the *Bundestag* is the oversight body in charge of assessing whether parties have complied with the finance regulations, including the publication of the reports. In addition, the Federal President may appoint a committee of independent experts on matters of party financing. While the President of *Bundestag* enjoys a high level of public confidence in its oversight work, some of the OSCE/ODIHR EET interlocutors stressed the importance of an independent body responsible for party and campaign finance monitoring. The OSCE/ODIHR EET was informed by its interlocutors that the President of the *Bundestag* supports the creation of an independent oversight authority.³⁰

The legal framework could be amended to establish clear oversight and monitoring powers for campaign financing assigned to an independent and effective body.

By law, failure to submit a financial report or an inaccurate report may cause administrative or criminal sanctions; a fine amounting to double the amount incorrectly stated can be levied, or a party can lose its legal status for up to six years.

²⁵ As of September, reported donations (over EUR 50,000) for 2017 amounted to EUR 3.2 million. [Report](#) on parties' donations over EUR 50,000 is published by the *Bundestag*.

²⁶ According to the latest published [financial reports for 2015](#), the two largest political parties represented in the *Bundestag*, SPD and CDU, have received over EUR 74.5 and 64.5 million from this type of donations, respectively, representing approximately half of the parties' annual budget.

²⁷ [The 2015 OSCE/ODIHR Handbook on Observation of Campaign Finance](#) states that "Timely disclosure can also inform voters and enable them to assess the relative level and type of financial support for candidates and political parties before deciding for whom to vote."

²⁸ Council of Europe's Group of States against Corruption (GRECO) [report](#) on the transparency of party funding in Germany recommended that the country should consider lowering the 50,000 Euro threshold for immediate reporting and disclosure, reducing significantly the threshold for the disclosure of donations and donors, ensure that "the body to which the supervision of party financing is attributed enjoys a sufficient degree of independence and is equipped with proper means of control, adequate staffing and appropriate expertise."

²⁹ According to the [2017 Lobby Control Report](#), the motor industry donated EUR 17 million to political parties in 2017.

³⁰ Article 14 of [Recommendation Rec\(2003\)4 of the Council of Europe](#) to member states on common rules against corruption in the funding of political parties and electoral campaigns stipulates that "States should provide for independent monitoring in respect of the funding of political parties and electoral campaigns. The independent monitoring should include supervision over the accounts of political parties and the expenses involved in election campaigns as well as their presentation and publication."

VII. COMPLAINTS AND APPEALS

During the pre-election period, complaints can be filed with the election administration on matters of voter registration and issuance of polling cards, as well as denial of registration of candidates and party lists.³¹ In general, complaints are filed with the committee that is hierarchically higher than the one that issued the disputed act. Decisions of the Federal Election Committee (FEC) that deny the registration of political parties and associations for the *Bundestag* elections can be challenged before the FCC within four days.³² For the 2017 *Bundestag* elections, seven parties deemed not eligible appealed to the FCC, which in all cases upheld the FEC decision.

All other types of complaints, including on breaches of electoral rights and the validity of elections, can only be filed after election day through the procedure of election scrutiny. Any eligible voter and any association, including political parties, can lodge complaints within two months from election day.³³ The Basic Law places the scrutiny of federal elections under the responsibility of the *Bundestag*. The Law on the Scrutiny of Elections provides for the formation of a Committee for the Scrutiny of Elections, Immunity and the Rules of Procedure that has the mandate to examine post-election complaints and prepare decisions for the *Bundestag*. The subsequent decisions can be further challenged to the FCC within two months.

Legislation does not establish any timeframe for decisions on post-election complaints. In practice, their resolution can take considerable time. The OSCE/ODIHR EET was informed that some 220 complaints filed following the 2013 elections were decided upon by the *Bundestag* within a year. The FCC is currently considering an appeal regarding the denial of the right to vote for persons under full custodianship and those committed to psychiatric institutions due to diminished criminal liability. Such a lengthy process raises questions on the efficiency and timeliness of protection of electoral rights and is at odds with OSCE commitments as well as other international obligations and standards.³⁴ Furthermore, the system where at first instance the *Bundestag* is called to decide upon the validity of election of its own members might raise issues of potential conflict of interest.

To ensure effective and timely protection of electoral rights, legislation could be reviewed to establish reasonable deadlines for the resolution of post-election complaints.

VIII. OBSERVERS

The Basic Law provides that members of the *Bundestag* are elected in general, direct, free, equal and secret elections. The election legislation states that polling shall be public, granting the public

³¹ The composition of *Länder* Election Committees and the Federal Election Committee includes judges from the administrative courts.

³² Parties that do not hold at least five seats in either the *Bundestag* or at a *Länder* parliament must be recognized as parties by the FEC.

³³ *Länder* returning officers, the Federal returning officer and the President of the *Bundestag* can also file complaints in their official capacity.

³⁴ Paragraph 5.10 of [the 1990 OSCE Copenhagen Document](#) states that “everyone will have an effective means of redress against administrative decisions.” [Article 2.3 of the UN International Covenant on Civil and Political Rights \(ICCPR\)](#) obliges State Parties to ensure that persons whose rights are violated shall have an effective remedy. [General Comment no 31 of the UNHRC](#) requires State Parties to “ensure that individuals have accessible and effective remedies” and establishes “the obligation to investigate promptly, thoroughly and effectively”. In addition, [the Venice Commission's Code of Good Practice in Electoral Matters](#), paragraph 95, stretches the importance of resolving appeals on pre-election matters in a timely manner.

access to all stages of the process, but makes no specific provision for the presence of international observers which is contrary to paragraph 8 of the 1990 OSCE Copenhagen document.³⁵

Consideration should be given to amending the legislation to explicitly provide for the presence of international observers, to ensure full compliance with paragraph 8 of the 1990 OSCE Copenhagen Document.

IX. RECOMMENDATIONS

These recommendations contained throughout the text are offered with a view to enhancing the conduct of elections in Germany and bringing 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 OSCE/ODIHR recommendations that remain to be addressed. The OSCE/ODIHR stands ready to assist the authorities to further improve the electoral process and in following-up on the recommendations contained in this and previous reports.³⁶

1. Consideration could be given to providing a regulation of any campaigning by third-parties to ensure transparency and accountability of the electoral process.
2. Consideration could be given to requiring the disclosure of financial reports, including campaign finance records, in a timely manner with their subsequent publication, and ensuring that these requirements apply to all electoral contestants in line with international good practice. To strengthen transparency and accountability of the campaign finance framework, consideration could be given to lowering the reporting threshold for the immediate disclosure of donations.
3. The legal framework could be amended to establish clear oversight and monitoring powers for campaign financing assigned to an independent and effective body.
4. To ensure effective and timely protection of electoral rights, legislation could be reviewed to establish reasonable deadlines for the resolution of post-election complaints.
5. Consideration should be given to amending the legislation to explicitly provide for the presence of international observers, to ensure full compliance with paragraph 8 of the 1990 OSCE Copenhagen Document.

³⁵ Paragraph 8 of the 1990 OSCE Copenhagen document states that: “the participating States consider that the presence of observers, both foreign and domestic, can enhance the electoral process for States in which elections are taking place. They therefore invite observers from any other CSCE participating States and any appropriate private institutions and organizations who may wish to do so to observe the course of their national election proceedings, to the extent permitted by law. They will also endeavour to facilitate similar access for election proceedings held below the national level. Such observers will undertake not to interfere in the electoral proceedings.”

³⁶ 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.”

ANNEX: FINAL RESULTS³⁷

Contestants	Seats
Christian Democratic Union (CDU)	200
Social Democratic Party (SPD)	153
Alternative for Germany (AfD)	94
Free Democratic Party (FDP)	80
The Left (<i>Die Linke</i>)	69
Alliance '90/the Greens (<i>Bündnis 90/Die Grünen</i>)	67
Christian Social Union of Bavaria (CSU)	46
Total	709

In total, 218 women were elected to parliament, representing approximately 31 per cent of the total number of MPs.

³⁷

More detailed elections results can be accessed on the following [link](#).

ABOUT THE OSCE/ODIHR

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

The OSCE/ODIHR, based in Warsaw (Poland) was created as the Office for Free Elections at the 1990 Paris Summit and started operating in May 1991. One year later, the name of the Office was changed to reflect an expanded mandate to include human rights and democratization. Today it employs over 130 staff.

The OSCE/ODIHR is the lead agency in Europe in the field of **election observation**. Every year, it co-ordinates and organizes 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, the OSCE/ODIHR helps participating States to improve their electoral framework.

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

The OSCE/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 persons, 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**, the OSCE/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. The OSCE/ODIHR's activities related to tolerance and non-discrimination are focused on the following areas: legislation; law enforcement training; monitoring, reporting on, and following up on responses to hate-motivated crimes and incidents; as well as educational activities to promote tolerance, respect, and mutual understanding.

The OSCE/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 organizations.

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