



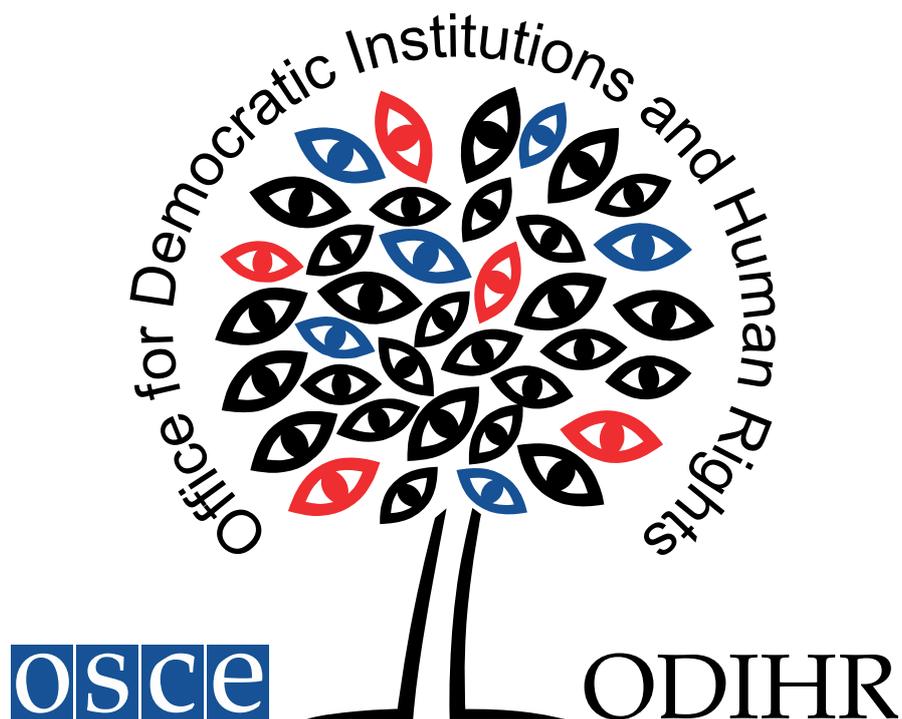
Office for Democratic Institutions and Human Rights

# SWISS CONFEDERATION

**FEDERAL ASSEMBLY ELECTIONS**  
**20 October 2019**

**ODIHR NEEDS ASSESSMENT MISSION REPORT**

21-23 May 2019



Warsaw  
5 July 2019

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**SWISS CONFEDERATION  
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20 October 2019**

**ODIHR Needs Assessment Mission Report**

**I. INTRODUCTION**

Following an invitation from the Government of Switzerland to observe the 20 October 2019 Federal Assembly elections, and in accordance with its mandate, the OSCE Office for Democratic Institutions and Human Rights (ODIHR) undertook a Needs Assessment Mission (NAM) to Switzerland from 21 to 23 May. The NAM included Ana Rusu, ODIHR Senior Election Adviser, and Radivoje Grujić, ODIHR Election Adviser.

The purpose of the mission was to assess the pre-election environment and the preparations for the Federal Assembly elections. Based on this assessment, the NAM should recommend whether to deploy an ODIHR election-related activity for the forthcoming elections, and if so, what type of activity best meets the identified needs. Meetings were held with officials from federal and cantonal institutions, as well as representatives of political parties, media, and civil society. A list of meetings is annexed to this report.

ODIHR would like to thank the Federal Department of Foreign Affairs and the Delegation of Switzerland to the OSCE for their assistance in organizing the NAM. ODIHR would also like to thank all of its interlocutors for taking the time to meet with the NAM and for sharing their views.

**II. EXECUTIVE SUMMARY**

Switzerland is a federal state with a parliamentary system of governance. The country's three-tiered political system comprises the federal authorities, 26 cantons, and some 2,200 communes. The cantons exercise wide authority and have their own constitutions, laws, parliaments, and courts. On 20 October, voters will elect members to the bicameral Federal Assembly for a four-year term. Most of the 200 National Council members are elected under a proportional system, while the 46 Council of States members are largely elected through majoritarian contests.

While federal legislation provides minimum conditions for National Council elections, the implementation and details are regulated by cantonal law. The Council of States elections are under the full competence of the cantons. Recent legal amendments address a number of prior ODIHR recommendations, primarily related to the transparency of New Voting Technologies (NVT), candidate registration, and the timeframe for ballot delivery to voters. However, other recommendations remain unaddressed, including in respect of equal political rights for all citizens, campaign finance transparency, and the legal rights of election observers. There are ongoing legislative initiatives related to internet voting and campaign finance.

The organization and administration of Federal Assembly elections is highly decentralized and varies substantially among cantons and communes, with the Federal Chancellery ensuring respect of federal standards. Voters are provided with a wide variety of methods to cast their vote, including in person, by post, and, in federally approved pilots, via the internet. Most ODIHR NAM interlocutors expressed a high-level of confidence in the election administration and its ability to organize elections in a professional and impartial manner.

For the upcoming elections, it was expected that some 51,500 citizens from 4 cantons would be eligible to vote via the internet, subject to authorisation by the Federal Council. Most ODIHR NAM interlocutors expressed their confidence in the testing of internet voting and appraised efforts at all levels of the administration to promote verifiability and mitigate cyber security risks. At the same time, some shared concerns about conditions for public intrusion tests (PIT) and the impact of the PIT results, including the interpretation by certain political leaders, may have on public confidence in internet voting. There is a popular initiative to put a moratorium on internet voting, for which the collection of signatures started in March 2019. After both existing internet voting systems were withdrawn by the developers, no internet voting will be offered in the 2019 Federal Assembly elections.

Voter registration is passive and some 5.4 million citizens are eligible to vote in these elections. While all citizens residing abroad can vote in the National Council elections, only 13 cantons allow such voting in the Council of States elections. Some 25 per cent of the population are resident non-citizens and many ODIHR NAM interlocutors expressed concern that they cannot vote in elections to the Federal Assembly.

All citizens with the right to vote can stand for National Council elections, while, at odds with a prior ODIHR recommendation, eligibility and registration requirements for Council of States elections vary considerably. There are no legal requirements to promote women candidates and existing voluntary efforts to promote women candidates were assessed as insufficient by many ODIHR NAM interlocutors. Women comprise 28 per cent of members in the Federal Assembly.

The campaign is expected to focus on environmental issues, social policies, gender equality, and relations with the European Union, with the future of internet voting and regulation of campaign finance also expected to feature. Political adverts are forbidden, except in the press and on social media. No parties raised concerns about their ability to campaign freely, although several interlocutors noted that inflammatory speech, gender stereotyping, and discriminatory advertising may occur during the campaign.

Despite prior recommendations from the ODIHR and the Council of Europe, campaign finance remains largely unregulated and lacks transparency. Parties can receive unlimited funds from any source and there are no limits on expenditures. Since the last elections, two more cantons have requirements to disclose the source or amount of donations, bringing the total to 5 cantons out of 26. While there are no new federal rules for campaign finance in these elections, there is a popular initiative to introduce party and campaign finance regulations at the federal level.

The media landscape is pluralistic and freedom of expression and the media is guaranteed by the federal constitution, but defamation remains criminalized. Coverage of the election campaign is largely self-regulated with the possibility to appeal to media supervisory bodies. While no concerns were raised related to media access during elections, some ODIHR NAM interlocutors expressed concerns over intolerant rhetoric against minorities and stereotypes about women in media coverage.

The cantonal authorities serve as the first instance for the review of complaints. Appeals on violations of political rights on cantonal and federal level may be filed with the Federal Supreme Court. There is no possibility to appeal acts of the Federal Assembly or the Federal Council.

Despite the lack of explicit legal provisions for international or citizen election observers, ODIHR has received a timely invitation to observe the upcoming elections and all stakeholders affirmed their willingness to co-operate with a potential ODIHR election observation activity.

ODIHR NAM interlocutors expressed a high-level of confidence in the integrity of the electoral process and the ability of the election administration to conduct professional and transparent elections, with no concerns expressed about the ability to campaign freely. Most ODIHR NAM interlocutors welcomed potential observation, noting the value of previous ODIHR assessments, but also highlighting that many previous ODIHR recommendations have not been addressed. They also underlined the importance and added value of an updated external review, particularly in light of ongoing initiatives related to internet voting and campaign finance regulation, as well as the implementation of recent amendments to the legal framework, campaign rules and its media coverage, particularly including women's participation. On this basis, the ODIHR NAM recommends, subject to the availability of resources, the deployment of an Election Assessment Mission for the 20 October 2019 Federal Assembly elections.

### III. FINDINGS

#### A. POLITICAL BACKGROUND

Switzerland is a federal state with a parliamentary system of governance. Political institutions reflect strong decentralization, linguistic diversity, and a tradition of direct democracy as exercised through regular referenda and popular initiatives. The country's three-tiered political system comprises the federal authorities, 26 cantons, and some 2,200 communes. The cantons exercise wide authority and have their own constitutions, laws, parliaments, and courts.

At the federal level, legislative power is exercised by the Federal Assembly, a 246-member bicameral parliament (National Council and Council of States) elected for a four-year term. Both chambers exercise equal powers. Executive power is vested in the seven-member Federal Council, which is elected by the Federal Assembly. The Federal Council is a collegial body and represents Switzerland as a collective head of state, with its largely ceremonial presidency rotating annually among members. Traditionally, seats on the Federal Council have been allocated to political parties based on their strength in the Federal Assembly. Elections for both chambers of Federal Assembly will be held on 20 October.<sup>1</sup>

Eleven parties are currently represented in the Federal Assembly, out of which six are represented in the Council of States and all eleven in the National Council.<sup>2</sup> Women are generally underrepresented in public office. Although 3 out of 7 Federal Councillors are women, only some 28 per cent of seats in the outgoing Federal Assembly and 29 per cent of seats in the cantonal parliaments are held by women.<sup>3</sup> The Federal Chancellery informed the ODIHR NAM that, in line with a ODIHR previous recommendation, the Federal Council expressed its support for a joint federal-cantonal statistical

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<sup>1</sup> Except the canton of Appenzell Innerrhoden, where an election took place on 28 April 2019.

<sup>2</sup> Parties and their representation in the National Council and Council of States, respectively: Swiss People's Party (64 and 5 seats); Social Democratic Party (42 and 12 seats); The Liberals (33 and 12 seats); Christian Democratic People's Party (26 and 14 seats); Green Party (11 and 1 seats); Conservative Democratic Party (7 and 1 seats). In addition, the following parties are represented in the National Council: Green Liberal Party (8 seats); Evangelical People's Party and Ticino League (2 seats each); Swiss Party of Labour, Movement Citizens Romands and Other (1 seat each). There is also one non-affiliated seat in the Council of States and one in the National Council, respectively, and one vacant seat in the National Council.

<sup>3</sup> The UN Committee on the Elimination of Discrimination against Women (CEDAW) in its 2016 [Concluding observations on the combined fourth and fifth periodic reports of Switzerland](#) expressed concerns that "women continue to be significantly underrepresented in the Council of States and the National Council, with the overall proportion of women in the Government continuing to be low following the most recent federal elections" (paragraph 30). See also paragraph 18 of the 2017 UN Human Rights Committee (CCPR) [Concluding observations on the fourth periodic report of Switzerland](#).

survey on voting participation by sex and age in Federal Assembly elections. However, due to a lack of interest by the majority of cantons, the Federal Council decided not to carry out such surveys.

ODIHR has previously observed three elections in Switzerland since 2007.<sup>4</sup> An Election Expert Team was deployed for the 2015 Federal Assembly elections to assess aspects related to internet voting. The final report concluded that “These elections marked a step forward in Switzerland’s development of internet voting. As part of a long-term project to develop online voting, some 130,000 eligible voters from four cantons were eligible to participate in internet voting pilots. This was the second time that internet voting had been piloted for out-of-country voting in Federal Assembly elections and the first time that some citizens residing in Switzerland could vote via the internet in Federal Assembly elections. OSCE/ODIHR EET interlocutors expressed a high level of confidence in the integrity of internet voting. The pilots were administered professionally and in line with a newly detailed legal framework, although additional measures could be taken to enhance the transparency and accountability of the process.”

## **B. LEGAL FRAMEWORK**

Federal Assembly elections are primarily regulated by the Federal Constitution, the Federal Act on Political Rights (last amended in 2015), and the Federal Decree on Political Rights, as well as corresponding legislation at the cantonal level. For voters abroad, the consolidated and codified Swiss Abroad Act was introduced in 2015 and internet voting is regulated in details by the 2014 Federal Decree on Electronic Voting.<sup>5</sup> While federal law sets minimum conditions for National Council elections, the cantons are responsible for implementing regulations and providing detailed instructions. The elections for the Council of States are under the exclusive competence of the cantons.

Since the 2015 Federal Assembly elections, a number of initiatives have been taken, which led to legislative changes, as well as to new guidelines and instructions, at both the federal and cantonal levels.<sup>6</sup> Some of the changes address prior ODIHR recommendations, including those related to the transparency of New Voting Technologies (NVT), refinement of requirements for candidate registration and timeframe for ballots delivery to the voters. However, some prior ODIHR recommendations remain unaddressed, including on eliminating the difference in the eligibility requirements and conditions for candidates to be elected to the Council of States, greater safeguards against potential abuse of postal voting, increased security and oversight of the internet voting process, regulation of political party and campaign finance transparency, and legal rights for international and citizen election observers. Some ODIHR NAM interlocutors expressed dissatisfaction with the fact that previous ODIHR recommendations requiring legal changes have not been addressed.

While federal legislation does not contain explicit provisions for international or citizen election observation, some cantonal laws foresee the presence of political party representatives or observation by voters during voting and counting. Despite the lack of explicit legal provisions, ODIHR has

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<sup>4</sup> See all previous [ODIHR election-related reports on Switzerland](#).

<sup>5</sup> Amended on 30 May 2018, in force since 1 July 2018.

<sup>6</sup> See, for example, [Guide by the data protection authorities of the Confederation and the Cantons on the application of data procession laws to the digital processing in connection with elections and voting in Switzerland](#) (25 January 2019).

received a timely invitation to observe the upcoming elections and all stakeholders affirmed their willingness to co-operate with a potential ODIHR election observation activity.<sup>7</sup>

### C. ELECTORAL SYSTEM

The 200 seats of the National Council are allocated to the cantons according to their relative population as recorded in the latest census.<sup>8</sup> Each of the 26 cantons forms a single constituency and elects at least one member. The number of seats per canton varies from one in 6 cantons to 35 in the canton of Zurich. Elections are conducted under a proportional system, except in the cantons that return only one member where a majoritarian system is used.<sup>9</sup>

In the multi-member constituencies, voters choose among candidate lists mainly put forward by political parties. Parties may present a joint list with another party. Parties also often present separate “special lists” of candidates representing women, youth, or geographical areas within a canton, which, if combined, count towards the party’s total vote. Voters may use a pre-printed ballot paper with the list of a particular party and vote for all the candidates on the list. However, voters can also modify a pre-printed ballot paper by deleting candidates, adding candidates from other lists within the same constituency (“panachage”), or entering the name of one candidate twice (accumulation). Voters may also compose their own ballot paper by combining candidates from different lists within the constituency.

Elections to the Council of States are conducted under majoritarian systems, with the exception of the cantons of Jura and Neuchâtel, which use proportional representation. Twenty cantons elect two members each and six cantons elect one member each.<sup>10</sup>

### D. ELECTION ADMINISTRATION

The organization and administration of Federal Assembly elections is highly decentralized and varies substantially among cantons and communes. All interlocutors met with by the ODIHR NAM expressed a high-level of confidence in the election administration and its ability to organize elections in a professional and impartial manner.

The Federal Chancellery ensures respect of federal standards and has a co-ordination role for elections. It provides information on candidate registration to parties, checks candidate eligibility, and conducts voter information programmes, including the distribution of a leaflet describing the political parties and candidate lists. It also oversees the use of internet voting, the allocation of mandates to the electoral lists and candidates by cantons, and publishes the final nationwide results.

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<sup>7</sup> In 2015, the Federal Council proposed that the Federal Act on Political Rights be amended in order to include the legal basis for election observation. However, following a lively debate, the Parliament decided that there is no need to endorse the proposal, on the basis of the fact that international provisions apply directly into the national legal order.

<sup>8</sup> The census is conducted annually. In comparison to the 2015 elections, Geneva and Vaud gained one seat each, while Bern and Lucerne each lost one seat. See, [2017 Federal Decree on the Allocation of Seats at National Council Elections](#).

<sup>9</sup> In two of the cantons with only one seat, a candidate may be elected unopposed (a tacit election) if only one valid nomination is submitted by the thirtieth day prior to the election.

<sup>10</sup> The single-seat cantons of Appenzell Outer Rhodes, Appenzell Inner Rhodes, Basel-Landschaft, Basel-Stadt, Nidwalden, and Obwalden resulted when previous cantons decided to split into two parts.

No data is collected on gender representation in the election administration and only 9 out of 26 canton chancellors, who also have election-related responsibilities, are women.<sup>11</sup>

At the cantonal level, election administration tasks are mostly undertaken by cantonal chancelleries and communes. Under federal law, the cantons are responsible for registering candidate lists, printing and delivering voter identification cards and voting materials (including for voters residing abroad), aggregating the cantonal election results and allocation of mandates. Many other key responsibilities are generally delegated to the communes, including the dispatch and return of ballot packages to voters, the administration of early voting, the operation of polling stations, and the vote count.

The Federal Chancellery informed the ODIHR NAM of continuous efforts made to harmonize election procedures across the cantons, in line with previous ODIHR recommendations. Since the last Federal Assembly elections, the Federal Chancellery has organized annual meetings with cantonal election officials to identify and exchange good practices, including in respect of security measures for postal and early voting, data protection, counting methods, and access for voters with disabilities. Some ODIHR NAM interlocutors considered that institutionalisation of regular meetings under the auspices of the Federal Council could contribute to greater exchange of information and good practices among cantonal representatives.

## **E. VOTING METHODS**

The legal framework provides voters with a wide variety of voting methods, including in person, by post, and, in federally approved pilots, via the internet (see *New Voting Technologies*). Most ODIHR NAM interlocutors expressed a high level of trust in the available voting methods.

Voters can cast their ballot in person at their registered polling station upon presentation of the voter identification card. Polling stations are open for a limited period on election day, generally between 10.00 and 12.00, with some open for only 30 minutes. The number of polling stations is decreasing in recent years, as fewer voters decide to vote in person. In addition, cantons are obliged to provide early voting at polling stations for a minimum of two of the four days immediately prior to election day.

All cantons are required to provide a postal voting option, including to citizens residing abroad. While there are no official statistics, it is estimated that this voting method is used by some 90 per cent of voters. Voters who cast postal ballots must send their voter identification card, using a double envelope system, with the ballot to prevent the possibility of voting additionally at a polling station. In line with a previous ODIHR recommendation, the deadline for candidate registration has been brought forward to August. Accordingly, the distribution of voting materials is now mandated for between three to four weeks prior to elections, instead of previously ten days prior to elections. The amendment was welcomed by all ODIHR NAM interlocutors, particularly by cantonal authorities, who stated that this will help mitigate potential late arrival of voting materials to the voters.

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<sup>11</sup> UN CEDAW in its 2016 [Concluding observations on the combined fourth and fifth periodic reports of Switzerland](#) recommended to “strengthen its efforts to increase the number of women in elected decision-making bodies at the federal and cantonal levels, as well as in appointed positions at the local level, and to achieve the equal representation of women and men in political and public life”.

## F. NEW VOTING TECHNOLOGIES

Internet voting is part of Switzerland's long standing e-government strategy, present since 2000, as a joint initiative between federal and cantonal authorities. The overall approach has been one of a gradual introduction of internet voting, with strict requirements on security, verifiability and transparency.<sup>12</sup>

The Federal Act on Political Rights and the Federal Decree on Political Rights provide minimum standards for internet voting pilots, which are currently restricted to a maximum of 10 per cent of the country's electorate and, with the current systems and certifications, to a maximum of 30 per cent of the cantonal electorate. These limits do not apply to Swiss citizens living abroad. Comprehensive end-to-end testing of internet voting systems must take place before the Federal Council can approve their use. More detailed regulation of internet voting is provided in Article 27 of the Federal Decree on Political Rights and the Federal Decree on Electronic Voting (amended in 2018), which includes an annex of technical and administrative requirements for internet voting. This revised legal framework provides greater detail on key processes and addresses a number of prior ODIHR recommendations, including transparency requirements for publishing the source code, increased voter information, and allowing voters to familiarize with and to test internet voting outside of an election.

Additionally, as previously recommended by ODIHR, all internet voting systems are now required to provide voters with the possibility to individually verify that their vote has been cast as intended. Eligible voters will receive codes with their voter identification card that will allow them to check that their ballot is recorded correctly and corresponds to their intention. At the same time, the authorities have undertaken new measures to promote cyber security and data protection, as outlined in a specific guidance note issued in January 2019.

For the upcoming National Council elections, nine cantons initially announced that they will submit applications for authorisations to use internet voting. After reviewing the applications, which have to be submitted by 3 July, the Federal Council will decide on them in August, subject to the approval of the proposed internet voting system.<sup>13</sup> This would be the third time that Internet voting has been trialled in Federal Assembly elections and the second time that citizens resident in Switzerland would be able to vote via the internet.<sup>14</sup> For these elections, initially two different systems were submitted for approval, the so-called "Geneva System" and "Swiss Post System".

On 19 June, the canton of Geneva decided to withdraw its internet voting system, on the grounds that a Federal Council decision to approve the cantons' use of internet voting systems in August would adversely impact their ability to prepare effectively.<sup>15</sup> Consequently, internet voting will not be available in the cantons of Aargau, Berne, Geneva, and Lucerne.<sup>16</sup>

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<sup>12</sup> Since 2004, more than 300 pilots of internet voting were conducted in 15 cantons.

<sup>13</sup> The cantons concerned are: Aargau, Bern, Basel-Stadt, Fribourg, Geneva, Luzern, Neuchâtel, St. Gallen, and Thurgau. In these cantons, all of the estimated 86,000 citizens living abroad would be able to cast their ballot via the internet. Some further 120,000 voters resident in the cantons of Basel-Stadt, Fribourg Geneva, Neuchâtel and St. Galen would also be offered the option to vote via internet.

<sup>14</sup> In the 2015 Federal Assembly elections, out of 132,134 voters eligible to vote online, 13,370 did so.

<sup>15</sup> Earlier, the "Geneva System" announced it will discontinue its development and maintenance from February 2020, due to a lack of financial resources.

<sup>16</sup> Additionally, on 19 June, the canton of St. Gallen announced it will not apply to use of internet voting. All of these cancelations reduced the potential number of non-resident citizens able to cast their ballot via the internet to some 19,000 voters, and for resident citizens to some 32,500 voters.

In February, the Swiss Post system published its source code and opened a system for public intrusion tests (PIT) from 25 February to 24 March. Two serious issues were discovered that affect universal verifiability, and individual verifiability appeared not to be possible, while no irregularities were observed with the integrity of the casting and counting of votes.<sup>17</sup> Some ODIHR NAM interlocutors criticized the conditions in place for the PIT as certain intrusion techniques were excluded from the outset by the code of conduct put in place by Swiss Post. Following the PIT, the Swiss Post system was not approved to be used in a national referendum on 19 May, and additional analysis was ordered by the Federal Council.<sup>18</sup> This analysis would inform the upcoming Federal Council decision on the authorisation to use internet voting systems in the upcoming Federal Assembly elections. On 5 July, Swiss Post decided to no longer offer its internet voting system for the 2019 Federal Assembly elections and to continue working exclusively on its new system with universal verifiability, with a plan to make it available to the cantons from 2020.<sup>19</sup> Consequently, no internet voting will be offered to the voters for the 20 October Federal Assembly elections.<sup>20</sup>

These developments took place within the content of a process initiated by the Federal Council in 2017 to start the preparation to end the trial phase and to introduce online voting as a standard third voting channel. As a precondition to offer internet voting to all of the electorate, voting systems are required to provide universal verifiability, whereby any person or group can use mathematical means of verification to check that election results correspond to the votes cast and that the process has been conducted accurately. To this end, the Federal Council mandated a group of experts to look into this matter, composed of representatives of federal authorities, the cantons and the scientific community. In its 2018 final report, the expert group concluded that the knowledge and the procedural prerequisites to establish online voting as a third voting channel are present.<sup>21</sup> However, on 26 June 2019, the Federal Council, taking into account recent developments with the Swiss Post and Geneva systems, decided to delay introducing internet voting as a regular voting channel and to amend the general conditions for future pilots.<sup>22</sup> At the same time, there is a popular initiative to put a moratorium on internet voting, for which the collection of signatures started in March 2019 and will last until autumn 2020.

Overall, most ODIHR NAM interlocutors expressed their confidence in the testing of internet voting and appraised efforts made at all levels of administration to promote verifiability and mitigate cyber security risks. At the same time, some shared concerns about the impact of recent PIT results and other developments related to internet voting, including their interpretation by certain political leaders, on public confidence in internet voting.

## G. VOTING RIGHTS AND VOTER REGISTRATION

Citizens over the age of 18 are eligible to vote, unless deprived of legal capacity by a court order. There are some variations with respect to voting rights among the cantons.<sup>23</sup> Voter registration is

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<sup>17</sup> A total of 3,200 people from 137 countries took part in the PIT and 16 violations were identified.

<sup>18</sup> Five out of nine cantons using internet voting planned to use the Swiss Post system in the 2019 Federal Assembly elections.

<sup>19</sup> In its [press release from 5 July](#), the Swiss Post informed that its decision was influenced by high costs and the Federal Council's decision not to introduce internet voting as a third ordinary voting channel.

<sup>20</sup> By 3 July, within established deadlines, four cantons, Basel-Stadt, Fribourg, Neuchâtel, and Thurgau, applied to the Federal Council with the intention to use the Swiss Post internet voting system in the elections.

<sup>21</sup> See report of the [expert group on e-voting from April 2018](#). The report recommends, among other issues, to simplify the authorization process, publish the source code and public intrusion test results, and move towards paper-less electronic voting through pilots.

<sup>22</sup> See [Federal Council press release from 27 June 2019](#).

<sup>23</sup> For example, the canton of Glarus allows citizens to vote in Council of States elections from the age of 16, while voting in the canton of Schaffhausen is compulsory and a fine is imposed for non-compliance.

passive and voter lists are compiled by the communes or cantons based on population registers. Of a permanent resident population of some 8.5 million, around 5.4 million citizens will be eligible to vote in these elections. No ODIHR NAM interlocutors expressed concerns regarding the accuracy of voter lists.

All cantons provide Swiss citizens residing abroad with the possibility to vote in, and be elected to, the National Council. To do so, they must register in their last commune of residence, or, in its absence, in their commune of origin. Following the adoption of Swiss Abroad Act that came in force on 1 November 2015, citizens residing abroad do not need to register for every elections anymore. Once registered for the first time, they remain in the register unless the voting materials to the voter were returned as undeliverable for three times in a row. In contrast, only 13 cantons provide the right for non-resident citizens to vote in elections to the Council of States.<sup>24</sup> Some 172,000 of the estimated 760,000 citizens living abroad are registered to vote in the upcoming elections.<sup>25</sup>

It is estimated that 2.1 million non-citizens are resident in Switzerland (some 25 per cent of the population). While they do not have voting rights in National Council elections, the cantons of Jura and Neuchâtel do allow non-citizens to vote in Council of States elections.<sup>26</sup> Many ODIHR NAM interlocutors expressed concern about the fact that almost a quarter of the population cannot vote in elections to the Federal Assembly, while being subject to its decisions. There is a trend to grant voting rights in local elections to long-term residents who are not citizens, and many ODIHR NAM interlocutors opined that this will be a topic in the election campaign.<sup>27</sup>

## H. CANDIDATE REGISTRATION

Citizens with the right to vote can stand for National Council elections. Members of the Federal Council, federal judges, federal civil servants and high-ranking military personnel may stand for election but are required to resign from their post if they are elected and accept their mandate. Candidate lists should be supported by signatures of 100 voters in cantons electing 2 to 10 representatives, by 200 voters in cantons electing 11 to 20 representatives, and by 400 voters in cantons electing more than 20 representatives. Parties are exempt from collecting signatures if they are registered with the Federal Chancellery by the end of 2018, and are represented in the National Council or gained at least three per cent of the vote in the same canton in the previous election.<sup>28</sup> A voter may not support more than one list.

Despite previous ODIHR recommendations that federal and cantonal authorities could reflect on the extent to which differences in eligibility and registration requirements may affect the principle of equality of political rights of all citizens, for Council of States elections the variety of criteria remains.

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<sup>24</sup> The cantons of Aargau, Basel-Landschaft, Basel-Stadt, Bern, Fribourg, Geneva, Graubünden, Jura, Neuchâtel, Schwyz, Solothurn, Ticino, and Zurich.

<sup>25</sup> See data provided by the [Organization of the Swiss Abroad](#).

<sup>26</sup> The authority to grant the rights to vote for non-citizens rests with the cantons.

<sup>27</sup> See paragraph 3 of the 1996 UN CCPR General Comment No. 25 to Article 25 of the International Covenant on Civil and Political Rights. Also, section I.1.1.b of the 2002 Venice Commission Code of Good Practice in Electoral Matters states that “it would be advisable for foreigners to be allowed to vote in local elections after a certain period of residence”.

<sup>28</sup> The 2015 amendments to the Federal Act on Political Rights removed an exemption that a party that submits only one candidate list in a canton does not need to submit signatures.

While no legal requirements to promote women candidates exist, many parties have internal policies encouraging women to participate.<sup>29</sup> CEDAW has expressed concern that structural barriers and gender bias with regard to the realization of women's engagement in political and public life exclude women from decision-making positions in both elected and appointed positions in public office and political parties.<sup>30</sup> The Federal Council issued a circular to the cantonal governments providing, among others, for more awareness raising on gender-balanced candidate lists among political parties and groups. Despite voluntary efforts made in the last years to increase women's participation in political life, many ODIHR NAM interlocutors assessed the number of women candidates as insufficient and stagnating.<sup>31</sup>

## I. ELECTION CAMPAIGN

Federal legislation does not regulate the campaign in detail. Campaign posters are permitted and political advertisements are allowed only in printed media. Freedom of assembly is guaranteed by the constitution. However, in Geneva canton, by law from 2016, in order to organize a mass event requiring the deployment of specific and extraordinary police resources, the request for authorization must be submitted three months in advance and must indicate the business name of the company contracted to provide security at the event.<sup>32</sup>

Political parties met with by the ODIHR NAM informed that they plan to campaign through posters, canvassing and small meetings, as well as via the internet and social media. No parties raised concerns about their ability to campaign freely, although several interlocutors noted that inflammatory speech and discriminatory advertising may occur during the campaign, including hate speech and acts of hatred against the Muslim, Jewish and Roma communities.<sup>33</sup> The campaign for the upcoming elections is expected to focus on environmental issues, social policies, gender equality, and relations with the European Union.<sup>34</sup> Many ODIHR NAM interlocutors also expect the campaign to reflect on various election-related initiatives at the federal level, mainly related to the future of internet voting and regulation of campaign finance.

## J. CAMPAIGN FINANCE

There are no federal regulations on party or campaign finance, despite previous recommendations by ODIHR and the Council of Europe's Group of States Against Corruption (GRECO).<sup>35</sup> Parties can receive unlimited contributions from any source and there are no limits on expenditures. With the exception of five cantons, there are no requirements to disclose the sources or amounts of donations.<sup>36</sup> Although parties do not receive direct federal funding, parliamentary groups do receive

<sup>29</sup> See the 2016 UN CEDAW [Concluding observations on the combined fourth and fifth periodic reports of Switzerland](#) paragraph 31c.

<sup>30</sup> See the 2016 UN CEDAW [Concluding observations on the combined fourth and fifth periodic reports of Switzerland](#) paragraph 30b.

<sup>31</sup> See, for example, "[Helvetia is calling](#)" political independent movement.

<sup>32</sup> See the 2017 UN CCPR [Concluding observations on the fourth periodic report of Switzerland](#), paragraph 48. Fines that may be imposed for organizing an unauthorized demonstration are up to 100,000 CHF.

<sup>33</sup> See the 2017 UN CCPR [Concluding observations on the fourth periodic report of Switzerland](#), paragraph 20; the 2014 UN Committee on the Elimination of Racial Discrimination [Concluding Observations on Switzerland](#), paragraph 6; the 2014 European Commission against Racism and Intolerance [Report on Switzerland](#), pages 15-19.

<sup>34</sup> A [14 June nationwide Women's strike movement](#), took thousands of women to the streets in many towns and major cities including Bern, Basel, Lausanne and Zürich, organized by umbrella organization of 16 different unions, demanding an end to an equality gap. As a result of this, it is expected that gender wage gap, domestic violence, sexual harassment also be prominent topics of the election campaign.

<sup>35</sup> See GRECO "[Fifth Interim Compliance Report of the Third Evaluation Round](#)" (10 August 2018).

<sup>36</sup> These cantons are Geneva, Neuchâtel and Ticino, and from 2018, Fribourg and Schwyz.

some public funding. A few cantons, such as Geneva and Fribourg, grant public subsidies to parties and/or partial reimbursement of campaign expenditures.

Since the last Federal Assembly elections, there have been different initiatives to introduce party and campaign finance regulations at the federal level. The Federal Council recommended to parliament to reject an initiative it received in October 2017, stating that it is “hardly compatible with the peculiarities of the Swiss political system”.<sup>37</sup> At the cantonal level, parliamentary or popular initiatives to enhance campaign finance transparency were accepted in Fribourg and Schwyz, which many ODIHR NAM interlocutors were encouraged by. Some parties have introduced internal limits on donations and a few voluntarily disclose information on their funding and advocate for greater regulation. The authorities and some parties informed the ODIHR NAM that efforts are complicated by concerns over donor privacy and a tradition of discrete philanthropy and political support in Switzerland. Almost all ODIHR NAM interlocutors raised concerns over the lack of transparency in the financing of political parties and electoral campaigns. The issue is expected to be a topic in the campaign.

## **K. MEDIA**

The Federal Constitution guarantees freedom of expression and the media. However, defamation is a criminal offence, with financial sanctions foreseen, and prison of up to three years for insulting foreign official or intergovernmental organization. Media are largely self-regulated and there is no specific legislation covering the role of the media during an election. However, the Federal Law on Radio and Television does provide guidance to electronic media for coverage of political events, emphasising the need for diversity, equality, and objectivity. Some ODIHR NAM interlocutors expressed concerns about racist and xenophobic discourse in politics and in the media, as well as stereotypes about women. Many ODIHR NAM interlocutors emphasized that instances of intolerant speech in the media may increase during the election campaign.

The media landscape is pluralistic and structured primarily along linguistic lines. There is a variety of public and private television channels and radio stations, a vibrant and diverse press, and an increasing number of internet-based news sites. While political advertisement is forbidden including for on-demand and video-text services, it is not prohibited in print media and on social media. Additionally, parties and candidates can purchase TV space and register interviews to be broadcast. Most ODIHR NAM interlocutors opined that television remains the main source of information for voters.<sup>38</sup>

The public broadcaster, Swiss Broadcasting (SRG SSR), is the only national broadcaster and runs 8 television stations and 18 radio stations in the 4 official languages. As established practice before each Federal Assembly elections, SRG SSR has issued internal instructions to ensure equitable and strictly balanced coverage of political actors during the upcoming elections. It also informed ODIHR NAM that debates between candidates and parties are envisioned. In January 2018 the license of SRG

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<sup>37</sup> See the [statement by the Federal Council from 29 August 2018](#). Parliament will discuss the initiative before the Federal Council sets a date for a nationwide vote, expected either in 2020 or 2021. If the initiative gets accepted, parties would have to publish the origin of all donations over CHF10,000 (EUR 8,890) annually. In addition, individuals and committees who donate more than CHF100,000 to a campaign – or more than CHF10,000 per person – would have to declare the source and the total amount they have donated.

<sup>38</sup> UN CEDAW in its 2016 [Concluding observations on the combined fourth and fifth periodic reports of Switzerland](#), paragraph 22 [recommended to](#) “Establish an education strategy for media professionals comprising guidelines and monitoring mechanisms to eliminate discriminatory stereotypes against women and to encourage gender-neutral media coverage, especially in the run-up to elections, introduce measures to promote the equal representation of women and men in the media and amend the Federal Act on Radio and Television to explicitly refer to equal representation within the media”.

SSR was renewed. Among new requirements are that at least 80 per cent of its programmes need to be accessible for persons with different type of disabilities, and that gender issues be treated with respect, including balanced gender representation in its programmes.

Several bodies are in charge of different aspects of media oversight. For programmatic content on broadcast media, the first instance are Ombudspersons who are assigned to specific broadcasters and act as mediators. If no agreement is reached between the parties, a complaint can be filed with the Independent Complaints Authority (ICA), with a possible appeal to the Federal Supreme Court. The 2016 amendments to the Federal Act on Radio and Television authorized ICA to oversee the online content of the SRG SSR. Separately, the Federal Office of Communications supervises advertising on broadcast media, including violations of the ban on political advertising, while the Press Council deals with complaints against print media.

## **L. COMPLAINTS AND APPEALS**

Complaints and appeals for National Council elections are regulated by the Federal Act on Political Rights, and by cantonal legislation for Council of States elections. The cantonal authorities serve as the first instance for the review of complaints and an appeal must be filed within three days of the detected irregularities. The canton must then issue a decision within ten days and, if an irregularity is established, provide appropriate remedies. Appeals on violations of political rights on cantonal and federal level may be filed with the Federal Supreme Court within 3 days of the original decision for National Council elections and 30 days for Council of States elections.<sup>39</sup> Some ODIHR NAM interlocutors were of the opinion that the election dispute resolution system could be improved by dropping the cantonal level of hearings as well as reducing the deadline related to Council of States elections to three days. There is no deadline for the Federal Supreme Court to issue a decision.

## **IV. CONCLUSIONS AND RECOMMENDATIONS**

ODIHR NAM interlocutors expressed a high-level of confidence in the integrity of the electoral process and the ability of the election administration to conduct professional and transparent elections, with no concerns expressed about the ability to campaign freely. Most ODIHR NAM interlocutors welcomed potential observation, noting the value of previous ODIHR assessments, but also highlighting that many previous ODIHR recommendations have not been addressed. They also underlined the importance and added value of an updated external review, particularly in light of ongoing initiatives related to internet voting and campaign finance regulation, as well as the implementation of recent amendments to the legal framework, campaign rules and its media coverage, particularly including women's participation. On this basis, the ODIHR NAM recommends, subject to the availability of resources, the deployment of an Election Assessment Mission for the 20 October 2019 Federal Assembly elections.

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<sup>39</sup> There is no possibility to appeal against acts of the Federal Assembly or the Federal Council.

## **ANNEX: LIST OF MEETINGS**

### **Federal Department of Foreign Affairs**

Anna Ifkovits Horner, Deputy Head, OSCE Division  
Barbara Schedler, Deputy Head, Human Security Division

### **Federal Chancellery**

Barbara Perriard, Head of Political Rights Section  
Evelyn Mayer, Project Manager E-voting  
Raphaël Leuenberger, Political Scientist  
Alexandra Graf, Elections Administrator

### **St. Gallen Cantonal Chancellery**

Philipp Egger, Head, IT and Infrastructure  
Thomas De Rocchi, Head, Political Rights Section

### **Zurich Cantonal Chancellery**

Stephan Ziegler, Head, Election and Vote, Statistical Office

### **Federal Supreme Court**

Peter Uebersax, Attorney

### **Federal Commission for Women's Issues**

Pierre-André Wagner, Vice-President

### **Federal Office of Communications**

Oliver Gerber, Media Lawyer

### **Independent Complaints Authority**

Pierre Rieder, Head of Secretariat

### **SRG SSR Swiss Broadcasting Corporation**

Larissa Bieler, Director and Editor-in-Chief, Swiss Info  
Peter Zschaler, Deputy Director, Swiss Info

### **Political Parties**

Thomas Egger, National Councillor, Christian Democratic People's Party  
Heinz Siegenthaler, National Councillor, Conservative Democratic Party  
Christa Markwalder, National Councillor, The Liberals  
Margret Kiener Nellen, National Councillor, Head of Swiss Delegation to the OSCE PA, Social Democratic Party  
Peter Hug, International Secretary, Social Democratic Party  
Gäelle Lapique, Political Secretary, Swiss Green Party

### **Civil Society**

Michael Erne, Project Manager, Smartvote  
Alex Biscaro, Deputy Executive Director, Transparency International Switzerland  
Uwe Serdült, Digital Democracy Expert, University of Zurich  
Ardita Driza Maurer, NVT Expert & Researcher, Centre Direct Democracy Aarau