



Office for Democratic Institutions and Human Rights

REPUBLIC OF AUSTRIA

EARLY PARLIAMENTARY ELECTIONS

15 October 2017

OSCE/ODIHR Election Assessment Mission Final Report



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I. EXECUTIVE SUMMARY

Following an invitation from the Austrian Federal Ministry for Europe, Integration, and Foreign Affairs and based on the recommendation of a Needs Assessment Mission, the OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR) deployed an Election Assessment Mission (EAM) for the early parliamentary elections held on 15 October 2017.

The elections reflected Austria's vibrant democracy. The campaign was lively, with civil and political freedoms fully respected. The media provided extensive and varied coverage that enabled voters to make an informed choice. Although aspects of election-related legislation could be improved, the election was effectively administered and enjoyed a high level of public confidence.

The legal framework provides a generally sound basis for the conduct of democratic elections. However, a number of previous OSCE/ODIHR recommendations remain to be addressed, including with regard to citizen observation, the composition of election boards, candidate registration procedures, campaign finance rules, and pre-electoral complaints and appeals. Many OSCE/ODIHR EAM interlocutors raised concerns over restricted access to information from public authorities, including about meetings of the election administration, which diminished the transparency of aspects of the elections.

The elections were administered in an efficient and professional manner. The public retains a high level of confidence in the election authorities. Austria's five-tiered election administration is made up at all levels of political party nominees on the basis of the last parliamentary election results. In many cases, candidates served as members of election boards, which could lead to a conflict of interest.

Citizens aged 16 or older are entitled to vote. Voter registration is passive except for citizens residing abroad who must actively register. The voter lists, compiled at local levels, included about 6.4 million citizens. Voters could challenge the inaccuracies and omissions in the voter lists to the municipalities and further to the Federal Administrative Court, but only a few did so. Political parties expressed high confidence in the accuracy of the voter register.

In total, some 4,000 candidates were registered in a largely inclusive manner to contest 183 parliamentary seats. Campaigning parties could present lists of candidates at the regional, province, and national levels. Contestants had to collect a certain number of support signatures from voters across all nine provinces or signatures from three members of parliament (MPs) to appear on the ballot. Several non-parliamentary parties complained that the signature collection process was unduly arduous. While MPs may support multiple lists of candidates, voters may support only one.

The campaign was vigorous, with a range of political contestants offering voters a broad and genuine choice, although the non-parliamentary parties were barely visible. Parties and candidates could campaign freely, and the civil and political rights of citizens were respected. Campaigning is largely

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

unregulated and continues through election day. The media and political contestants drew considerable attention to what they dubbed “dirty campaigning” – including the use of false Facebook pages intended to mislead voters and other malfeasance – which led to three criminal cases. Social media played a substantial role.

The legal framework for campaign finance does not provide effective oversight. Campaigning parties and third parties are not required to file campaign finance reports. All political parties are required to file annual income and expenditure reports, which include campaign finance, but these provide late and incomplete transparency and there is no penalty for failure to file a report. There is no requirement for parties to disclose income sources before election day, but several parties did so voluntarily. Campaign expenditure for parties is limited to EUR 7 million. Although parliamentary parties enjoy substantial levels of public funding, the Court of Audit does not have the power to audit their accounts. The sanctions for violating campaign finance rules are not dissuasive.

The media environment is diverse and lively. Both print and broadcast media provided extensive and varied coverage, offering wide-ranging political information for voters. Media coverage of the elections is largely unregulated. Defamation and libel are criminal offenses. An abundance of television debates gave leading contestants extensive opportunities to present their positions and provided ample information to the public. At the same time, smaller parties were often dissatisfied with the amount of coverage they received. Several OSCE/ODIHR EAM media interlocutors complained that state secrecy provisions hinder their access to information.

The Constitutional Court acts as the sole judicial instance for most election complaints, which can be filed only after final election results have been announced. One such complaint was filed for these elections. If the court finds that the alleged infraction could have affected the results, it can require the election be repeated in part or in whole. Campaigning parties, but not citizens, can appeal election results. Although there were very few complaints, the system may not provide a timely or effective remedy for complaints that do not rise to the level of requiring a cancellation of the election results.

There are no special measures in the law to promote women candidates or promote gender-balanced representation on election boards. Several parties have adopted internal policies to ensure balanced gender representation among candidates. In the new National Council, 34 per cent of members are women. Only a few of the parties tackled gender-related socio-economic and labour policies in their campaigns. Women candidates did not enjoy significant visibility in the campaign.

In line with the OSCE/ODIHR’s methodology, the EAM did not observe election day proceedings in a systematic or comprehensive manner, but visited a limited number of polling stations on election day and observed counting. Overall, the polling stations visited were well prepared and polling station boards organized the electoral process efficiently. Official results were announced on 31 October. No citizen observers were allowed to observe voting or counting, at odds with OSCE commitments.

This report offers a number of recommendations to support efforts to bring elections in Austria further in line with OSCE commitments and other international obligations and standards for democratic elections. Priority recommendations relate to citizens’ right of access to information on all aspects of elections, effective oversight of political finance and campaign expenditures, effective remedies with regards to electoral violations, and preventing of conflicts of interest in election administration. The OSCE/ODIHR stands ready to assist the authorities to improve the electoral process and to address the recommendations contained in this and previous reports.

II. INTRODUCTION AND ACKNOWLEDGEMENTS

Following an invitation from the Austrian Federal Ministry for Europe, Integration, and Foreign Affairs (MFA) to observe the early parliamentary elections and based on the recommendation of a Needs Assessment Mission conducted from 23 to 25 August 2017, the OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR) deployed an Election Assessment Mission (EAM) from 29 September to 20 October.² The OSCE/ODIHR EAM was led by Peter Eicher and consisted of six experts from six OSCE participating States. The EAM was based in Vienna and also made visits to the provinces of Burgenland, Lower Austria, and Upper Austria.

The electoral process was assessed for compliance with OSCE commitments, other international obligations and standards for democratic elections, and with national legislation. In line with the OSCE/ODIHR's methodology, the EAM did not observe election day proceedings in a systematic or comprehensive manner, but visited a limited number of polling stations.

The OSCE/ODIHR EAM wishes to thank the Austrian Federal Ministry for Europe, Integration, and Foreign Affairs (MFA) and Federal Ministry of Interior (MoI) for their co-operation and assistance, as well as to express gratitude to representatives of other public institutions, political parties, media, civil society, and other interlocutors for sharing their views.

III. BACKGROUND

Austria is a federal parliamentary republic consisting of nine provinces. Legislative powers are vested in a bicameral parliament composed of the 183-member National Council (*Nationalrat*, lower chamber), directly elected for a five-year term, and the 61-member Federal Council (*Bundesrat*, upper chamber), indirectly elected by the provincial legislatures. The Chancellor, usually leader of the largest parliamentary party, is the head of the government, appointed by the president following the parliamentary elections. Before these elections, some 31 per cent of members of both chambers of parliament were women, including the president of the National Council and the vice-president of the Federal Council, as were 3 out of 14 ministers.

Following the 2013 parliamentary elections, six political parties were represented in the National Council with the Social Democratic Party (SPO) and the Austrian People's Party (OVP) forming a "grand coalition".³ On 14 July 2017, as a consequence of a stalemate between the coalition partners, the federal government, in agreement with the National Council, called early parliamentary elections for 15 October. All parliamentary parties were in favour of the decision.

The run up to the early elections was framed by a number of key events, including the 2015 migration crisis, the 2016 presidential election that had to be re-run, the 2016 resignation of the chancellor (SPO) and the 2017 resignation of the vice-chancellor (OVP) due to internal party turmoil, and conflicts between the coalition partners. Christian Kern and Sebastian Kurz were nominated as the new leading candidates of the SPO and OVP respectively, with OVP rebranded as "List Sebastian Kurz – the New Peoples' Party" for these elections.

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

³ The six parliamentary parties were the SPO (52 seats), the OVP (47 seats), the Freedom Party (FPÖ, 40 seats), the Greens (24 seats), Team Stronach (11 seats), and the New Austria and Liberal Forum (NEOS, 9 seats).

IV. ELECTORAL SYSTEM

The 183 members of the National Council are elected for a five-year term through a party list proportional representation system with preferential voting. The country is divided into nine constituencies that correspond to provinces (*Länder*), which are in turn divided into 39 regional constituencies (*Regionalwahlkreise*). The number of seats assigned to each constituency is proportional to its population as determined at the last census, and ranges from one to nine.⁴

Seats are allocated to candidate lists that receive at least 4 per cent of the valid votes nationwide and those that gained a direct mandate at regional level. First, direct mandates at regional level are allotted to regional candidate lists using a mathematical formula *sui generis*.⁵ Province lists are then allocated seats according to the Hare method. Finally, federal candidate lists are allocated the remaining seats using the d'Hondt system. Mandates won at each stage are subtracted from seat allocation at the following stage, in order to enhance overall proportionality.

Using a single ballot paper, voters mark their choice of candidate list and may cast three preferential votes within the list: one each for their preferred candidates at federal, provincial, and regional level. Preferential votes are taken into account only for candidates that receive minimum percentage of votes out of the total number of votes that the list gained.⁶ Notably, no candidates were elected through a preferential vote at these elections.

V. LEGAL FRAMEWORK

Overall, the legal framework provides a sound basis for the conduct of democratic elections. The elections are primarily regulated by the 1929 Constitution (last amended in 2016), the 1992 Parliamentary Election Act (last amended in 2016) and by several other laws.⁷ In addition, the case law of the Constitutional Court as well as guidelines of the MoI contributed to the legal framework of these elections. Austria is a party to the major international and regional instruments related to the holding of democratic elections.⁸

⁴ The numbers of MPs elected per province are as follows: Burgenland - 7 MPs from 2 constituencies; Carinthia - 13 MPs from 4 constituencies; Lower Austria - 37 MPs from 7 constituencies; Upper Austria - 32 MPs from 5 constituencies; Salzburg - 11 MPs from 3 constituencies; Styria - 27 MPs from 4 constituencies; Tyrol - 15 MPs from 5 constituencies; Vorarlberg - 8 MPs from 2 constituencies, and Vienna - 33 MPs from 9 constituencies.

⁵ The number of seats allocated to a candidate list entitled in a regional constituency is defined as the quotient of the corresponding valid votes for the list in the province and the electoral regional quota. The latter is defined as the total number of all valid votes cast in the constituency divided by the number of seats allocated to the respective constituency.

⁶ According to the law, the candidates need to obtain 7 per cent of preferential votes in the federal list, 10 per cent in the provincial list, and 14 per cent in the regional list to alter the order of the corresponding candidate list.

⁷ Other relevant laws include the 1947 Prohibition Act, the 1953 Constitutional Court Act, the 1973 Act on the Electoral Register, the 1974 Penal Code, the 2012 Federal Act on Financing of Political Parties (FPPA), and the 2012 Federal Support of Political Parties Act (PPA).

⁸ Including the 1966 International Covenant on Civil and Political Rights (ICCPR), 1965 International Convention on the Elimination of All Forms of Racial Discrimination, 1979 Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), 2003 UN Convention against Corruption (UNCAC), 2006 UN Convention on the Rights of Persons with Disabilities (CRPD), and 1950 European Convention on Human Rights. Austria is also a member of the Council of Europe's European Commission for Democracy through Law (Venice Commission) and Group of States against Corruption (GRECO).

There have been a number of changes to the electoral legal framework since the last parliamentary elections, most of which have been of a technical nature.⁹ Additional electoral reform was initiated in 2017 with cross-party support, including consideration of prior OSCE/ODIHR recommendations and initiatives of the MoI and civil society; however, this was not completed due to the calling of early elections. A number of OSCE/ODIHR recommendations remain to be addressed, including in regard to the composition of election boards, the transparency of Federal Election Board (FEB) meetings, the openness of the electoral process to citizen observers, strengthened campaign finance rules and an expanded scope for pre-electoral complaints and appeals. It was widely anticipated that reform efforts would be re-started following these elections and some OSCE/ODIHR EAM interlocutors suggested that the law could benefit from harmonization and simplification to avoid dense and difficult text and outdated formulations.

The legal framework should be reviewed to address existing gaps and ambiguities as well as past and present OSCE/ODIHR recommendations. Reform should be undertaken well in advance of the next elections and involve open consultation with all stakeholders.

Austria is a party to international treaties encompassing the right of access to information.¹⁰ The Constitution, however, does not explicitly guarantee the freedom of access to information¹¹ and, in practice, acts regulating public authorities' duty to impart information have not always guaranteed that the right of access to information is respected.¹² The lack of legal guarantees or effective practices to ensure citizens can receive information of public interest from state institutions negatively affected the transparency of many aspects of the electoral process. Notably, decisions and minutes of election boards were not made public and polling station results were not posted or otherwise made available to the public. Decisions of the Independent Political Parties Transparency Panel (IPPTP) were frequently not made public. OSCE/ODIHR EAM media interlocutors raised concerns that they were often denied access to official documents, impeding their ability to report fully and accurately on elections and related political issues. Civil society interlocutors raised concerns that lack of access to official information undermined their ability to observe and analyse the electoral process.

The authorities should take steps to ensure citizens' right of access to information on all aspects of elections are in line with Austria's international obligations, by ensuring guarantees in law are clear and comprehensive and proactively putting relevant information into the public domain and providing easy, effective, quick, and practical access to such information.

⁹ Including refined voting procedures, clarified scope of duties of regional electoral authorities, amended model of the voting card.

¹⁰ [2011 UN General Assembly resolution 66/163](#), in particular, reiterates that "transparency is a fundamental basis for free and fair elections, which contribute to the accountability of Governments to their citizens, which, in turn, is an underpinning of democratic societies". In addition, according to the Article 13.1(b) of the UNCAC, State parties ensure "that the public has effective access to information". See also articles 7.3 and 10 of the UNCAC.

¹¹ Article 20 (3) of the Constitution obliges State officials to maintain confidentiality under broadly defined circumstances.

¹² See, for example, the European Court of Human Rights judgement in [Österreichische Vereinigung zur Erhaltung v. Austria](#), 28 November 2013. There was a draft for a freedom of information act proposed to the parliament in 2015, but it has never been put for a vote.

VI. ELECTION ADMINISTRATION

The election administration has five levels, reflecting the governance structure. It comprises the FEB, 9 Province Election Boards (PEBs), 111 District Election Boards (DEBs), 2,100 Municipal Election Boards (MEBs), and some 10,000 Polling Station Boards (PSBs).

The FEB is responsible for supervising the work of lower election boards, registering federal candidate lists, and announcing final election results. The law provides that the FEB can review and annul decisions of lower-level election authorities; there were no such cases during these elections. The PEBs are in charge of registering province and regional candidate lists, counting votes cast with voting cards, and compiling election results. The DEBs count postal votes and compile election results of subordinate boards. The MEBs certify candidate support documentation, oversee voter registration, produce voter lists, and compile the results from polling stations and mobile election boards. The PSBs conduct voting and counting on election day; in small municipalities, MEBs carry out the tasks of the PSBs.

Election board members at all levels are appointed by political parties on the basis of the results of the last parliamentary elections, using the d'Hondt formula to determine how many members of each political party serve on each board. Parties can recall any member they have appointed at any stage of the process.¹³ All parties competing in elections have the right to nominate observers to all boards.

The FEB is composed of 17 members; 15 nominated by the parliamentary political parties,¹⁴ and two judges appointed by the Minister of Justice and the President of the Administrative Supreme Court respectively. The Minister of Interior serves as the FEB chair. The PEBs, DEBs, and MEBs are composed of nine members and a chair each. The chairs are the heads of the respective local government (governors, heads of districts, and mayors). The PSBs consist of three members and a chair appointed by the mayor from the municipal administration. Members of all boards are appointed for five years term.

Political parties informed the OSCE/ODIHR EAM that they faced difficulties in identifying a sufficient number of citizens willing to serve as polling staff, especially in the light of the criminal proceedings opened against some poll workers as a consequence of unintended procedural errors during the 2016 presidential election.¹⁵ Many OSCE/ODIHR EAM interlocutors confirmed that it is not rare for the PSBs to consist of only one or two members on election day. The law allows for the possibility of the PSBs made up of members of only one party.

Elected officials and candidates can and frequently do serve as election board members. In these elections, two FEB members were sitting MPs and eight FEB members competed as candidates. According to the MoI, a large number of candidates were serving on lower-level election boards, including at polling station level. Nevertheless, almost all OSCE/ODIHR EAM interlocutors expressed full confidence in the work of all levels of the election administration.

¹³ Section 77 of the Explanatory Report of the 2002 Venice Commission Code of Good Practice in Electoral Matters states that “bodies that appoint members to electoral commissions should not be free to recall them, as it casts doubt on their independence. Discretionary recall is unacceptable”.

¹⁴ For these elections, the FEB was composed of five SPO, four OVP, three FPO, two Greens and one NEOS representatives. All members of the FEB have their deputies.

¹⁵ Criminal investigations regarding abuse of public office and false certifications of the results following from procedural errors during the 2016 presidential election were still pending during these elections.

To safeguard the impartiality of the election administration and prevent conflicts of interest, candidates and sitting MPs could be restricted from serving on election boards and steps could be explored to ensure that polling station boards are composed of members from more than one political party.

The law does not provide measures to promote gender-balanced representation on election boards and gender disaggregated data is not systematically collected. Only 4 of the 17 members of the FEB as well as 16 out of 81 members of the PEBs are women.¹⁶

Measures should be considered to promote women's participation on election boards, including leadership positions. For example, political parties could be requested to nominate a minimum percentage of each gender to election boards. In addition, gender disaggregated data should be compiled and published on election board membership at each level.

Election board sessions are held as needed. For these elections, the FEB met three times before election day. The meetings are not open to public and minutes of meetings are not published.¹⁷

To enhance transparency, the authorities should publicize the minutes and decisions of election boards at all levels. Consideration could also be given to opening election boards meetings to the public.

Civil servants at each level of government provide assistance to their respective election boards. The MoI plays a significant role, acting as the secretariat for the FEB. The MoI takes the lead on organizational and technical preparations, including producing election materials, guidelines and training manuals for electoral authorities, and voter education materials. The MFA informs citizens abroad about postal voting. Municipal authorities maintain voter registers and provide operational support for most election day activities.

VII. VOTER REGISTRATION AND VOTING ARRANGEMENTS

All Austrian citizens 16 years or older as of election day have the right to vote, unless their suffrage rights have been suspended by an individual court decision on limited grounds.¹⁸ Positively, there are no restrictions based on disability.

Voter registration is passive. Voters are automatically included in the voter lists by municipal authorities according to their place of main residence, except citizens living abroad who have to register actively. On 15 August, voter lists were displayed for public scrutiny for 10 days to allow

¹⁶ No data is available on the composition of the lower-level boards. Paragraph 40.13 of the 1991 OSCE Moscow Document commits participating States to “ensure the collection and analysis of data to assess adequately, monitor and improve the situation of women”. See also Article 7(b) of the CEDAW. Paragraph 26 of the 1997 General Recommendation 23 on CEDAW by the UN Committee on the Elimination of Discrimination Against Women (CEDAW Committee) provides that “states parties have a responsibility, where it is within their control [...] to appoint women to senior decision- making roles”.

¹⁷ Paragraph 19 of the 2011 CCPR General Comment No. 34 to the ICCPR states that: “To give effect to the right of access to information, States parties should proactively put in the public domain Government information of public interest. States parties should make every effort to ensure easy, prompt, effective and practical access to such information”.

¹⁸ Citizens may be disenfranchised if convicted of a criminal offence under the Prohibition Act, imprisoned for more than one year for an offence against the state, army, and supreme state bodies, for electoral fraud, or if imprisoned for more than five years for any crime.

voters to request corrections of mistakes to the MEBs. Final voter lists were closed on 8 September and, according to the MoI, contained a total of 6,400,993 persons (3,307,645 women and 3,093,348 men) entitled to vote. All OSCE/ODIHR EAM interlocutors expressed full confidence in the accuracy and inclusiveness of the voter registration system.

In January 2018, in line with a prior OSCE/ODIHR recommendation, a new centralized voter register will become operational. While the quality of the data is expected to improve by easing the removal of duplicate entries, the introduction of the centralized voter register will not change the way voter lists are produced by municipalities.

Voting takes place in polling stations assigned to voters based on their place of main residence. The law also provides for mobile polling teams for voters with mobility difficulties. Voters residing abroad, travelling on election day, or wishing to cast their vote in a polling station other than their assigned one could apply for a voting card. In addition, voting cards are used by voters in special voting stations in hospitals, health care centres, nurseries, jails, and detention centres.

Voters could apply for a voting card either online, until four days before election day, or in person, until two days before election day. Once issued, voters could cast a ballot only with the voting card. Voters sending their ballot by mail are further required to accompany the ballot with an affidavit attesting that their vote was made personally, confidentially, and without influence. Postal ballots must be returned by 17.00 on election day by mail to the competent DEB. During working hours, postal ballots can be dropped off in-person or by a person of trust to any PSB or DEB in the country.

For these elections, a record high number of 889,193 voting cards were issued, representing almost 14 per cent of registered voters, including 59,283 issued to voters living abroad.¹⁹ Election boards received in total 795,763 voting cards, with only 5,157 of those found later as invalid. The majority of OSCE/ODIHR EAM interlocutors noted efficient administering of the alternative voting methods and expressed full confidence in the system.

VIII. CANDIDATE REGISTRATION

Eligible voters over 18 years could stand for elections. It is the duty of the PEB to assess whether a candidate meets the eligibility criteria, which includes a check of criminal records.²⁰

Each campaigning party could present lists of candidates at a regional, provincial, and/or federal level. The provincial candidate list had to be supported by either three MPs or by a specified number of signatures from registered voters.²¹ MPs could support multiple lists of candidates, whereas

¹⁹ In the 2013 parliamentary elections, some 574,000 voters cast a postal vote. In the first round of the 2016 presidential election, some 543,000 cast a postal vote; the number rose to 760,000 in the second round.

²⁰ Section 41 of the Parliamentary Election Act excludes persons from standing after receiving a prison sentence of at least six months or a conditional prison sentence of more than one year for an intentional crime. The exclusion remains in force for six months after the prison sentence has been completed or, in the case of a conditional sentence, for six months after the date of the sentence ruling. The exclusion from the right to stand for elections is not required to be expressly mentioned in the criminal ruling. In addition, under the Prohibition Act, persons can be barred from candidacy for acts in support of National Socialism, justification of the Nazi genocide, crimes against humanity or ideology. The Constitutional Court determined that this should be taken into account during the registration of candidates and political parties.

²¹ In total 2,600 signatures are needed to register lists in all nine provinces, with a minimum of 100 support signatures in Burgenland and Vorarlberg, 200 in Carinthia, Salzburg, and Tyrol, 400 in Upper Austria and Styria, and 500 in Lower Austria and Vienna.

registered voters could support only one list.²² For nominations to be registered, campaigning parties had to provide a set of documents on the candidates, ensure the validity of the supporting documents and pay EUR 435 per provincial candidate list.²³ A number of smaller parties were unable to gather the required support signatures. In total, 10 campaigning parties were registered at the federal level and 6 more at provincial level in a largely inclusive manner, with a total of some 4,000 candidates.

A registered voter who wished to support a provincial list of candidates had to show valid identification and sign a specific form, which had to be personally handed in at the municipal office of her or his main residence.²⁴ This could be done between 25 July and 18 August. To avoid multiple endorsements, a mark was made next to voter's name on the voter list. Several OSCE/ODIHR EAM interlocutors, in particular non-parliamentary political parties, described the procedures as unduly burdensome and asserted that bureaucratic obstacles occasionally prevented them from collecting the required support signatures.²⁵ Interlocutors also expressed concerns that having local authorities note the voter's political preference had a dissuasive and intimidating effect, especially in small communities.

Changing the procedure for collecting signatures, including allowing voters to give their signature outside of their home municipality and for more than one list of candidates, could be considered.

Although there are no legal requirements to promote women candidates, several parties adopted internal policies, such as the zippered list system, to ensure balanced gender representation among candidates. Three out of ten campaigning parties at the federal level were led by women, but none of these parties won a seat in the National Council. Overall, 63 women (34 per cent) were elected in these elections, contributing to a better gender balance than in the previous National Council.

IX. ELECTION CAMPAIGN

The political campaign is largely unregulated. Campaigning may begin at any time and continue up to and on election day. Contestants must notify the authorities 48 hours before holding a public assembly. No one is permitted to make public statements or engage in activities that violate the Prohibition Act. All contestants were able to conduct their campaigns freely; fundamental freedoms of association, assembly, and expression were respected.

The main contestants were the parties represented in the parliament: the FPO, Greens, NEOS, OVP, SPO, as well as List Peter Pilz, a split-off faction of the Greens.²⁶ The campaign was dynamic. The wide range of contestants offered a broad and genuine choice to the electorate. The prevalent themes were migration, integration, and socio-economic issues, including taxation, social benefits, and education.

²² Paragraph 77 of the 2010 OSCE/ODIHR and Venice Commission Guidelines on Political Party Regulation recommends that "in order to enhance pluralism and freedom of association, legislation should not limit a citizen to signing a supporting list for only one party".

²³ The total amount for all nine provinces is EUR 3,915; this is to partially cover the cost of printing the ballots.

²⁴ Unlike for presidential elections, non-resident citizens may not support parliamentary candidate lists from abroad.

²⁵ Paragraph 17 of the 1996 CCPR General Comment No. 25 to the ICCPR states that "If a candidate is required to have a minimum number of signatures this requirement should not be unreasonable and should not act as a barrier to candidacy".

²⁶ The only parliamentary party that did not contest the elections was Team Stronach.

The main methods of campaigning were appearances on televised debates, advertisements in the print media, billboards and posters, as well as traditional outreach methods such as canvassing in the streets with distribution of leaflets and other party paraphernalia. Bigger parties also conducted door-to-door campaigning. The non-parliamentary parties ran low-cost campaigns and were barely visible due to lack of finance and scarce media coverage as the public discourse and media focused mainly on parliamentary parties. According to all OSCE/ODIHR EAM interlocutors, online and social media played a significant role in the campaign.

The discourse between the two erstwhile coalition partners, SPO and OVP, became increasingly confrontational following the exposure of three fake Facebook pages including anti-Semitic and xenophobic content. Two of the Facebook pages were directed against the OVP leader and one against the SPO frontrunner with the aim of discrediting them. Following a series of mutual accusations concerning the alleged perpetrators, two criminal cases for defamation were filed by the SPO with the prosecutor.²⁷ The climate became more adversarial as another criminal case for bribery was filed by the SPO with the prosecutor.²⁸

In relation to these cases, the OVP leader Mr. Kurz called for the introduction of specific criminal provisions against “dirty campaigning” as it was dubbed by the media. SPO leader Mr. Kern called it the “biggest political scandal” in Austria’s history. While “dirty campaigning”, including defamation, is not regarded as a new phenomenon in Austria, all OSCE/ODIHR EAM interlocutors acknowledged that in this campaign it reached unprecedented heights, in particular due to the extensive reach of social media. Concentration of the political discourse on this topic, at times, distracted voters from the debate on policy issues and party programmes.

Gender equality was not a predominant topic in the campaign and, when present, focused mainly on family issues. Only a few parties tackled gender-related socio-economic and labour policies. Some of the parliamentary parties were supportive of introducing special incentives, such as augmented public funding for parties with a higher number of women on their lists, to increase the number of women in the parliament. Media attention was almost exclusively concentrated on leaders of the main political parties, all of which were men except the leader of the Greens. Women candidates did not enjoy significant visibility in the campaign. Positively, the party programmes of several of the major campaigning parties included sections for the enhancement of opportunities for persons with disabilities.

X. CAMPAIGN FINANCE

A. FUNDING SOURCES AND CAMPAIGN EXPENDITURE

Political party and campaign financing is regulated by the FPPA and the PPA. Considerable public funding is provided to political parties that are represented in the parliament and have formed a club with a minimum of five members.²⁹ Other parties that do not reach the 4 per cent threshold to enter parliament but receive at least 1 per cent of the vote, are granted a one-time subsidy of EUR 2.5 per

²⁷ The prosecutor office informed the OSCE/ODIHR EAM that suspects in both cases were identified and were under investigation. In addition to known suspects, both investigations were also led against unknown perpetrators who might have abetted the two known suspects.

²⁸ The SPO filed a case for bribery against the spokesperson of Mr. Kurz, who allegedly offered EUR 100,000 to a SPO-affiliated person in exchange for insider party information. The case was closed shortly after the elections, as the prosecutor did not find grounds to pursue a criminal investigation.

²⁹ A parliamentary faction (club) can be created within one month after the first parliamentary session after elections. The financing of the clubs is regulated by the 1985 Club Financing Act.

vote obtained. Annually, all parties combined receive around EUR 30 million in public federal funding, which may be used for campaigning.³⁰ In addition, according to available voluntary financial disclosures, the parties reportedly raised at least EUR 3.4 million in private donations for this campaign.³¹ The FPPA limits each campaigning party to EUR 7 million in campaign expenditure.³²

Political parties are not allowed to accept donations from state entities, party-backed academies, and parliamentary party clubs. While there are limits to foreign, anonymous, and cash donations, there is no limit for other private donations.³³ Loans are not subject to any restrictions in amount or source, creating a possibility that they could remain unpaid or be discharged without payment.³⁴

Some OSCE/ODIHR EAM interlocutors raised concerns that the campaign expenditure ceiling could be circumvented through third parties engaging in campaign activities for or against a contestant. The fact that third parties are not obliged to file financial reports or disclose sources of funding and expenditures, undermines the transparency of campaign finance and the effectiveness of ceilings.³⁵

Consideration should be given to regulating third party financing and loans, including disclosure requirements consistent with guarantees of freedom of expression and association.

B. DISCLOSURE AND REPORTING

While the FPPA requires annual reports on political party financing to be submitted to the Court of Audit by 30 September of the following calendar year,³⁶ there is no reporting requirement specifically on election campaign finance.³⁷ Political parties are simply required to file a statement that they did not exceed the campaign expenditure ceiling, without supporting documents. Reporting requirements apply only to political parties, while parliamentary clubs and subsidiary organizations are exempt. The parties' general financial reports are likely to be published on the Court of Audit's website only in the first half of 2019. The sole timely disclosure requirement applies to donations where a single transaction exceeds EUR 50,000, which have to be reported immediately to the Court of Audit and are then published on its website. Positively, some parties voluntarily published all their contributions on their party websites.

³⁰ See report of the Austrian Federal Chancellery at [Party and Academy Funding](#).

³¹ Out of the EUR 3.4 million, more than EUR 2.1 million were [reportedly](#) raised by the OVP.

³² Article 4 of the FPPA provides that "every political party may expend a maximum of EUR 7 million for election campaigning between the qualifying date for the election and the day of the election". The qualifying cut-off date for these elections was 25 July.

³³ Anonymous donations exceeding EUR 1,000, foreign and cash donations over EUR 2,500 and any donations from public bodies or entities with at least 25 per cent of state participation are prohibited.

³⁴ Paragraph 171 of the 2010 OSCE/ODIHR and Venice Commission Guidelines on Political Party Regulation states: "Legislation may allow parties and candidates to take out loans to finance their campaign... It is important that rules on transparency deal consistently with such resources".

³⁵ Article 7.3 of the 2003 UNCAC provides that States should "consider taking appropriate legislative and administrative measures [...] to enhance transparency in the funding of candidatures for elected public office and, where applicable, the funding of political parties".

³⁶ All donations exceeding EUR 3,500 annually must be reported in the annual financial reports, disclosing the donor's name and address. Similarly, revenues from sponsorship exceeding EUR 12,000 and all advertisements in party-controlled media above EUR 3,500 have to be reported in the annual report.

³⁷ Paragraph 200 of the 2010 OSCE/ODIHR and Venice Commission Guidelines on Political Party Regulation recommends that "reports on campaign financing should be turned into the proper authorities within a period of no more than 30 days after the elections".

The law does not provide any reporting details or empower the Court of Audit to provide a mandatory template. The absence of detailed and comprehensive financial reports makes it unfeasible to verify parties' compliance with the FPPA. In addition, the absence of timely reports on election contributions and expenditures prevents voters from taking this into consideration when making their decision for whom to cast their vote.

Requiring a pre-election campaign finance report providing preliminary details of income and expenditures of campaigning parties would enhance transparency and enable voters to make more fully informed choices. The subsequent annual party reports could then include comprehensive and itemized financial statements. Consideration could be given to expanding annual reporting requirements to parliamentary clubs and other organizations affiliated with political parties.

C. OVERSIGHT AND SANCTIONS

The Court of Audit is the financial oversight body, while the IPPTP is responsible for deciding on and imposing sanctions upon notification from the Court of Audit or claims from any citizen. IPPTP decisions can be appealed to the Federal Administrative Court. As last instance, constitutional challenges can be addressed to the Constitutional Court and administrative challenges to the Supreme Administrative Court.

The oversight mandate of the Court of Audit is limited by the FPPA to certification of the annual reports on the basis of the information submitted, without the power to verify whether these statements are complete and accurate.³⁸ The oversight body is therefore not able to obtain a full picture of a party's finances, including access to accounts and supporting documents, resulting in an ineffective control mechanism. This oversight mechanism is not in line with international standards and good practice.³⁹

To ensure effective oversight of political finance and campaign expenditures, the Court of Audit should be empowered to audit political parties' accounts on the same basis as other institutions receiving public funds, and should be provided the necessary resources to carry out these duties.

Sanctions for non-compliance with the FPPA may reach a maximum of EUR 100,000 depending on the severity of the offence. In case of exceeding the expenditure limit, parties can be fined up to 20 per cent of the excess amount spent. The failure to disclose a donation or the acceptance of a banned donation can be fined up to EUR 20,000. There are no penalties concerning in-kind contributions, since there are no provisions to determine or document their value.

Since 2013, the IPPTP has imposed sanctions in just four cases. It dismissed, for lack of evidence, four notifications on potential violations submitted by the Court of Audit, as well as several

³⁸ Meanwhile, the Court has a competence to inquire additional information and effectively verify the financial transactions of all public funded institutions without limitations.

³⁹ Article 14 (b) of the [2003 Council of Europe's Committee of Ministers Recommendation Rec\(2003\)4](#) on common rules against corruption in the funding of political parties and electoral campaigns stipulates that "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". Paragraphs 189 and 214 of the 2010 OSCE/ODIHR and Venice Commission Guidelines on Political Party Regulation state that "Public funding of political parties must be accompanied by supervision of the parties' accounts" and that "the regulatory authority should be given the power to monitor accounts and conduct audits of financial reports submitted by parties". In its successive reports on Transparency of Party Funding in Austria, GRECO reiterated the need to ensure an effective control mechanism.

complaints by political parties and citizens. The IPPTP received no complaints regarding the 2017 elections.

The current regime of sanctions is not effective in deterring violations or enforcing the law. The most obvious omission is the absence of sanctions for late or non-submission of annual financial reports from parties receiving public funds. The Court of Audit and the IPPTP have highlighted shortcomings in the scope of the FPPA,⁴⁰ which points to the need for revisions.⁴¹

Consideration should be given to amending the law to provide for proportionate, effective and dissuasive sanctions for violations of campaign finance provisions, based on a clear and adequate list of irregularities that apply to all electoral contestants and third parties.

XI. MEDIA

A. MEDIA ENVIRONMENT AND LEGAL FRAMEWORK

Austria has a diverse media environment, which facilitates freedom of expression and offers citizens a wide range of views. The public Austrian Broadcasting Corporation (ORF) maintains a dominant position in the market with four nationwide channels and nine provincial studios. The German media corporation *ProSiebenSat.1 Media* owns the most popular nationwide private broadcasters, PULS 4 and ATV.⁴²

The print media are divided along quality lines with three tabloid newspapers, *Kronen Zeitung*, *Heute*, and *Österreich*, dominating the market with a combined daily circulation of some 1,900,000 copies. A number of quality broadsheets have significantly lower national circulation, between 60,000 and 200,000 copies each, and provide more in-depth analysis and investigatory stories. Regional daily newspapers also enjoy considerable circulation. The internet is accessible to 84.6 per cent of the population⁴³ and the most popular online media are subsidiaries of traditional broadcasters and newspapers.

The activities of broadcast and print media are regulated by the 1981 Federal Act on the Press and other News Media, 1984 Federal Act on ORF, and the 2001 Audiovisual Media Services Act. The legal framework obliges media outlets to comply with principles of editorial independence, objectivity and diversity of opinions, but does not provide any specific regulations for election campaign coverage. Although the ORF is not legally restricted from airing paid political advertisements, this practice is prohibited by internal regulations.

Defamation, libel, insult, and slander have not been decriminalized and are punishable with a fine or imprisonment from 3 up to 12 months, but they are rarely applied against media.⁴⁴ Instead, media

⁴⁰ See [Court of Audit Report 2015/10](#) and [IPPTP Guiding Principles for Information to the Public](#) (in German).

⁴¹ According to the Article 16 of the 2003 Council of Europe's Committee of Ministers Recommendation Rec(2003)4 "States should require the infringement of rules concerning the funding of political parties and electoral campaigns to be subject to effective, proportionate, and dissuasive sanctions".

⁴² According to [TELETEST](#), in 2016, the average market share of ORF 1 and ORF 2 accounted for 11.7 and 21.2 per cent respectively, whereas that of PULS 4 and ATV accounted for 3.1 and 2.4 per cent respectively.

⁴³ As of March 2017, according to the [InternetWorldStats](#).

⁴⁴ According to the Paragraph 47 of the 2011 CCPR General Comment No. 34 to the ICCPR "States parties should consider the decriminalization of defamation and, in any case, the application of the criminal law should only be countenanced in the most serious of cases and imprisonment is never an appropriate penalty".

outlets and journalists may be prosecuted for such offenses under the Media Act, with fines up to EUR 50,000.

Criminal provisions for defamation, libel, insult, and slander should be repealed in favour of civil remedies designed to restore the reputation harmed.

The Constitution does not explicitly guarantee the freedom of information. The majority of journalists who met with the OSCE/ODIHR EAM noted that restricted access to information, due to the constitutional confidentiality clause, severely limits their ability to report, investigate, and verify stories of public interest regarding the activities of state institutions.⁴⁵

The ORF is overseen by a 35-member supervisory board, 24 of whom are nominated by either parliamentary parties, the federal or the regional governments, raising concerns among OSCE/ODIHR EAM interlocutors about its independence from political influence. The supervisory board gathers quarterly, appoints and dismisses the Director General of the ORF as well as the heads of the regional studios and decides upon the budgets.⁴⁶

The independent Austrian Communications Authority, *KommAustria*, oversees the compliance of electronic media with legislation. The supervision during the campaign was complaint-based and no internal media monitoring was conducted. *KommAustria* informed the OSCE/ODIHR EAM that it did not receive any election-related complaints.

The self-regulatory body for the print media is the *Presserat*, which reviews complaints against members and non-members alike, but has no sanctioning power. Complainants must pledge not to take their cases to court. The *Presserat* reviewed three election-related complaints, and concluded that *Die Ganze Woche* magazine violated professional standards by publishing political advertisements that were not clearly identified as such. Two other complaints against *Österreich* and *Der Standard* newspapers regarding the tone of coverage of the SPO and OVP leaders were dismissed. The *Presserat* did not conduct systematic media monitoring of the campaign and reviewed complaints on case-by-case basis.

B. COVERAGE OF THE ELECTION CAMPAIGN

The media covered the campaign extensively, providing citizens with access to differing political views and enabling them to make an informed choice.

The parliamentary parties received daily coverage in both public and private broadcasting media in various formats, including news programmes, dozens of TV debates, current affairs programmes, and political talk shows. In particular, the ORF organized over 35 election-related TV programmes, aired mostly during prime time.⁴⁷ However, the majority of them were focused on parties with club status in the parliament, effectively excluding non-parliamentary parties and newly created candidate lists from participation in the debates.⁴⁸ As an example, List Peter Pilz was excluded from TV debates on the ORF, while it was able to participate in the debates on private TV stations. The ORF justified the

⁴⁵ Article 8.10 of the [PACE Resolution 1636 \(2008\)](#) “Indicators for media in a democracy” highlight, that “privacy and state secrecy laws must not unduly restrict information”. See also *Legal Framework*.

⁴⁶ Current Director General of the ORF Alexander Wrabetz, a long-standing member of the SPO, temporarily suspended his membership in the party when he was appointed as Director General.

⁴⁷ According to [derStandard](#), approximately 1.2 million viewers (every fifth voter) watched the last debate televised by the public broadcaster on 12 October.

⁴⁸ ORF organized only one debate between smaller parties, which was aired on a Sunday outside of prime-time.

exclusion of the non-parliamentary and factionless parties from election programmes by referring to an ORF decision made in 1994 and applied since to all parliamentary elections.⁴⁹

Recognizing that public broadcasters have a responsibility to ensure a broad and balanced coverage of elections, ORF's current policy could be reviewed with the aim of providing equitable access for all campaigning parties to debates and other election-related programming.

Paid advertisements by the contesting parties in the print media were outnumbered by advertisements placed by national and local government bodies, indirectly benefitting the party associated with the institution. OSCE/ODIHR EAM interlocutors raised concerns over lack of transparency on allocating the state contracts to different media and alleged that such contracts influenced the editorial policies of the media.⁵⁰

XII. CITIZEN AND INTERNATIONAL OBSERVATION

The Parliamentary Election Act allows for election observation by party representatives and international OSCE observers. However, there is no provision for citizen observers. Although a majority of OSCE/ODIHR EAM interlocutors did not see significant value in permitting non-partisan citizen observation, the absence of a provision allowing for such observers is at odds with OSCE commitments and limits the active participation of citizens to engage in the democratic process, enhance electoral integrity, and promote accountability in government and among political contestants.⁵¹ The Austrian citizen election observation organization, *wahlbeobachtung.org*, was denied accreditation by the MoI on 16 August on the grounds of a Constitutional Court ruling stating that those not explicitly allowed at polling stations are not permitted to attend.

The election law should be amended to allow for citizen observation, in line with paragraph 8 of the 1990 OSCE Copenhagen Document.

XIII. COMPLAINTS AND APPEALS

The procedures for filing complaints and appeals are regulated primarily in the Parliamentary Election Act, the Administrative Court Proceedings Act, and the Constitutional Court Act. The judiciary enjoys a high level of public confidence.

The Constitutional Court is the highest judicial authority for the interpretation of the electoral legal framework. However, there are limitations to the availability of effective remedies through Constitutional Court challenges. Only representatives of campaigning parties and candidates who were denied participation in the elections can challenge the election results before the Constitutional Court. Ordinary citizens and voters cannot avail themselves of this remedy, which is at odds with a

⁴⁹ In 2015, the Federal Administrative Court [concluded](#) that this approach does not violate the rules of objectivity, nor the requirement to provide adequate coverage of the political parties.

⁵⁰ According to the [monitoring of six national newspapers conducted by Dossier](#), a website specializing in investigative journalism, between September 1 and October 12, the combined total gross value of print advertisements of government institutions was twice as large as that of all paid political advertisements of all election contestants combined.

⁵¹ Paragraph 8 of the 1990 OSCE Copenhagen Document provides 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”. See also preamble of [Declaration of Global Principles for Non-Partisan Election Observation and Monitoring by Citizen Organizations](#).

prior OSCE/ODIHR recommendation.⁵² Furthermore, challenges can only be brought after the announcement of the final results by the FEB.⁵³ If the Constitutional Court finds any unlawfulness that may have affected the result of the elections, it can require repeating the elections, in whole or in part.⁵⁴ A challenge must be filed within four weeks after the official publication of the results, but there is no deadline for adjudication since Constitutional Court proceedings are not governed by any explicit timeframes for parliamentary elections.

The EU Withdrawal Party petitioned the Constitutional Court to review the lawfulness of the elections citing numerous alleged procedural errors and unlawful practices. The Court informed the OSCE/ODIHR EAM that the case would be dealt with in March 2018 at the earliest.

The only type of dispute decided before election day regards voter registration. Requests for amendments of the voter lists can be made to the resident municipality, which has to decide within six days after the end of the public viewing of the voter lists. In line with a previous OSCE/ODIHR recommendation, an appeal may now be lodged to the Federal Administrative Court within two days of the municipality's decision. The Court then has to decide on the case within four days. For these elections, the Federal Administrative Court dealt with six such appeals, meeting the prescribed timeframe. A ruling of the Federal Administrative Court could be further appealed to the Supreme Administrative Court or the Constitutional Court depending on the subject-matter of the case, but no such appeals were made for these elections.

The right to an effective remedy in election-related disputes can often require an expedited, impartial, and preferably judicial procedure for deciding on cases which do not necessarily call for a resolution by the highest judicial authority of a country or rise to the level of requiring cancellation of the election results.⁵⁵

In line with previous OSCE/ODIHR recommendations, and to ensure that effective remedies are available to all citizens, steps should be considered to enable more types of electoral disputes to be resolved by a judicial body before election day, including disputes regarding candidates' right to stand for elections.

As to other election-related complaints or appeals, two criminal cases regarding defamation and one criminal case regarding bribery were initiated during the pre-election period (See *Election Campaign*). One campaigning party, List Peter Pilz, filed a challenge to the Constitutional Court regarding the alleged different treatment of campaigning parties in the parliament; the case is still pending consideration.

⁵² Section 3.3.f of the 2002 Venice Commission Code of Good Practice in Electoral Matters recommends that “all candidates and all voters registered in the constituency concerned must be entitled to appeal. A reasonable quorum may be imposed for appeals by voters on the results of elections”.

⁵³ Section 95 of the 2002 Venice Commission Code of Good Practice in Electoral Matters recommends: “Appeal proceedings should be as brief as possible, in any case concerning decisions to be taken before the election”.

⁵⁴ If the Constitutional Court orders repeat elections, this must be done within 100 days of the delivery of its ruling.

⁵⁵ Article 13 of the ECHR and article 2(3) of the ICCPR set out the right to an effective remedy. Paragraph 20 of the 1996 CCPR General Comment No. 25 to the ICCPR provides that “There should be [...] access to judicial review or other equivalent process so that electors have confidence in the security of the ballot and the counting of the votes”. Paragraph 5.10 of the 1990 OSCE Copenhagen Document states: “...everyone will have an effective means of redress against administrative decisions, so as to guarantee respect for fundamental rights and ensure legal integrity”.

XIV. ELECTION DAY AND POST-ELECTION DEVELOPMENTS

In accordance with the OSCE/ODIHR methodology, the EAM did not observe election day proceedings in a systematic and comprehensive manner, but visited a limited number of polling stations in two provinces, and observed counting of voting cards on 16 and 19 October.

The voting process in polling stations visited by the OSCE/ODIHR EAM was orderly and procedures were mostly followed. The opening hours of polling stations vary across Austria with hours of voting decided by local authorities. According to the MoI, polls opened between 6.00 and 12.30, and closed between 8.20 and 17.00 in various parts of the country.⁵⁶ Some ballot boxes at the polling stations visited by the OSCE/ODIHR EAM did not have tamper-evident locks or seals. No record of the voting cards (postal ballots) received was kept by polling staff, and, in some cases, the voting cards received were not placed in a secure place. Polling station results were not publicly posted.

Additional safeguards on election day could be considered, including a requirement to use tamper evident seals on ballot boxes and for polling stations to secure and record the voting cards (postal ballots) they receive.

The Parliamentary Election Act stipulates that, if possible, at least one polling station in every municipality (every district in Vienna) should be accessible to persons with disabilities. Positively, in practice, a higher number of polling stations visited by the OSCE/ODIHR EAM were accessible. In addition, all polling stations visited by the OSCE/ODIHR EAM had templates for use by voters with visual impairments. Nonetheless, groups representing persons with disabilities informed the OSCE/ODIHR EAM about insufficiencies in electoral, civic, and voter education materials, as well as the absence of political party programmes in easy-to-read formats. In most instances, visual media did not include subtitles, audio descriptions, or sign language interpretation.⁵⁷

Measures could be considered to enhance access for voters with different disabilities to all stages of electoral process, including campaign materials.

Counting took place on three days. On 15 October, immediately after polling stations closed, the PSBs counted regular votes and votes cast with voting cards within the same constituency. The results were communicated to the MEBs. The Minister of Interior announced these partial election results on 15 October in the evening.

By 17.00 on election day, 798,974 postal ballots arrived in the relevant boards.. Several OSCE/ODIHR EAM interlocutors expressed concerns that the possibility for late requests for sending voting cards abroad significantly challenges a timely return of postal ballots. Often, such ballots arrive after election day.

Consideration could be given to extend sufficiently the electoral calendar to ensure that postal votes from abroad arrive in time.

⁵⁶

By law, each municipal authority may determine the opening hours of polling stations within their territory.

⁵⁷

Article 21 of the CRPD sets out the right of access to information for persons with disabilities. Article 29 (a) of the CRPD obliges States to “ensure that persons with disabilities can effectively and fully participate in political and public life on equal basis with others [...] *inter alia*, by ensuring that voting procedures, facilities and materials are appropriate, accessible and easy to understand and use”.

On 16 October, DEBs counted 758,424 valid postal ballots. Another 37,339 voting cards cast by voters outside their assigned constituencies were counted on 19 October by the respective PEBs. Counting observed by the OSCE/ODIHR EAM was organized in a systematic and professional manner. Nevertheless, in particular at DEB and PEB level, the process was lengthy given the large number of voting cards and the need to count preferential votes at three levels. Votes counted after election day represented around 16 per cent of the total number of valid votes. The FEB declared the official results on 31 October 2017.

XV. RECOMMENDATIONS

These recommendations, as contained throughout the text, are offered with a view to further enhance the conduct of elections in Austria and to support efforts to bring them fully in line with OSCE commitments and other international obligations and standards for democratic elections. These recommendations should be read in conjunction with past OSCE/ODIHR recommendations that remain to be addressed. The OSCE/ODIHR stands ready to assist the authorities of Austria to further improve the electoral process and to address the recommendations contained in this and previous reports.⁵⁸

A. PRIORITY RECOMMENDATIONS

1. The authorities should take steps to ensure citizens' right of access to information on all aspects of elections are in line with Austria's international obligations, by ensuring guarantees in law are clear and comprehensive and proactively putting relevant information into the public domain and providing easy, effective, quick, and practical access to such information.
2. To ensure effective oversight of political finance and campaign expenditures, the Court of Audit should be empowered to audit political parties' accounts on the same basis as other institutions receiving public funds, and should be provided the necessary resources to carry out these duties.
3. In line with previous OSCE/ODIHR recommendations, and to ensure that effective remedies are available to all citizens, steps should be considered to enable more types of electoral disputes to be resolved by a judicial body before election day, including disputes regarding candidates' right to stand for elections.
4. To safeguard the impartiality of the election administration and prevent conflicts of interest, candidates and sitting MPs could be restricted from serving on election boards and steps could be explored to ensure that polling station boards are composed of members from more than one political party.

⁵⁸ 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".

B. OTHER RECOMMENDATIONS

Legal Framework

5. The legal framework should be reviewed to address existing gaps and ambiguities as well as past and present OSCE/ODIHR recommendations. Reform should be undertaken well in advance of the next elections and involve open consultation with all stakeholders.

Election Administration

6. Measures should be considered to promote women's participation on election boards, including leadership positions. For example, political parties could be requested to nominate a minimum percentage of each gender to election boards. In addition, gender disaggregated data should be compiled and published on election board membership at each level.
7. To enhance transparency, the authorities should publicize the minutes and decisions of election boards at all levels. Consideration could also be given to opening election boards meetings to the public.

Candidate Registration

8. Changing the procedure for collecting signatures, including allowing voters to give their signature outside of their home municipality and for more than one list of candidates, could be considered.

Campaign Finance

9. Consideration should be given to regulating third party financing and loans, including disclosure requirements consistent with guarantees of freedom of expression and association.
10. Requiring a pre-election campaign finance report providing preliminary details of income and expenditures of campaigning parties would enhance transparency and enable voters to make more fully informed choices. The subsequent annual party reports could then include comprehensive and itemized financial statements. Consideration could be given to expanding annual reporting requirements to parliamentary clubs and other organizations affiliated with political parties.
11. Consideration should be given to amending the law to provide for proportionate, effective and dissuasive sanctions for violations of campaign finance provisions, based on a clear and adequate list of irregularities that apply to all electoral contestants and third parties.

Media

12. Recognizing that public broadcasters have a responsibility to ensure a broad and balanced coverage of elections, ORF's current policy could be reviewed with the aim of providing equitable access for all campaigning parties to debates and other election-related programming.
13. Criminal provisions for defamation, libel, insult, and slander should be repealed in favour of civil remedies designed to restore the reputation harmed.

Citizen Observation

14. The election law should be amended to allow for citizen observation, in line with paragraph 8 of the 1990 OSCE Copenhagen Document.

Election day

15. Additional safeguards on election day could be considered, including a requirement to use tamper evident seals on ballot boxes and for polling stations to secure and record the voting cards (postal ballots) they receive.
16. Measures could be considered to enhance access for voters with different disabilities to all stages of electoral process, including campaign materials.
17. Consideration could be given to extend sufficiently the electoral calendar to ensure that postal votes from abroad arrive in time.

ANNEX: FINAL RESULTS

Final results were published by the Ministry of Interior as follows:⁵⁹

	Amount	Percentage
Total number of registered voters	6,400,993	100
Total number of votes cast (turnout)	5,120,881	80.0
Total number of valid votes	5,069,929	99.0
Total number of invalid votes	50,952	1.0

Distribution of valid votes to the political parties and allocation of seats:

Campaigning Party	Votes received	Percentage	Number of seats
List Sebastian Kurz – the New People’s Party	1,595,526	31.47	62
Social Democratic Party of Austria	1,361,746	26.86	52
Freedom Party of Austria	1,316,442	25.97	51
NEOS – The New Austria	268,518	5.30	10
List Peter Pilz	223,543	4.41	8
The Greens – The Green Alternative	192,638	3.80	-
List Roland Dueringer - GILT	48,234	0.95	-
Communist Party of Austria	39,689	0.78	-
The Whites	9,167	0.18	-
Free List of Austria	8,889	0.18	-
New Movement for Future	2,724	0.05	-
Homeless in the Politics	761	0.02	-
Socialist Left Party	713	0.01	-
EU Withdrawal Party	693	0.01	-
Christian Party of Austria	425	0.01	-
Men’s Party of Austria	221	0.00	-
TOTAL	5,069,929	100.0	183

⁵⁹

Final results as [published by the Ministry of Interior](#).

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 programmes 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 OSCE/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).