



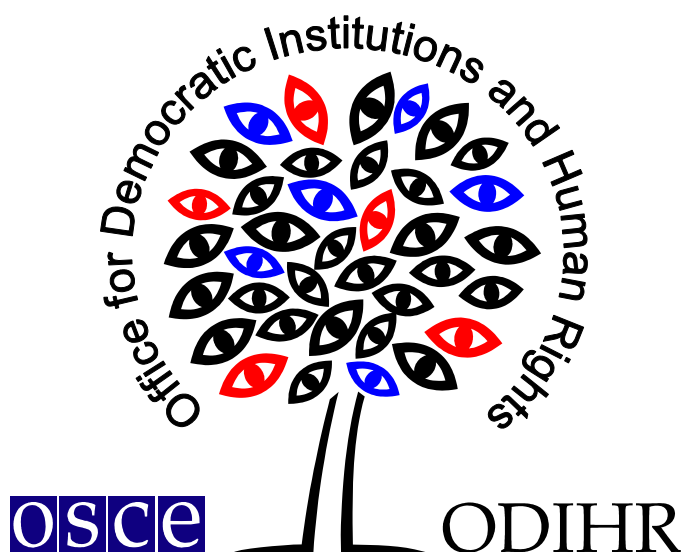
Office for Democratic Institutions and Human Rights

**UNITED KINGDOM
ELECTIONS FOR THE DEVOLVED ADMINISTRATIONS
IN SCOTLAND, WALES AND NORTHERN IRELAND**

PART 2: NORTHERN IRELAND*

26 NOVEMBER 2003

OSCE/ODIHR ASSESSMENT REPORT



Warsaw, 19 December 2003

* Part 1, Scotland and Wales was published on 28 May 2003 following OSCE/ODIHR's Assessment of the Elections held on 1 May 2003.

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**OSCE/ODIHR Assessment Report
19 December 2003**

I. EXECUTIVE SUMMARY

The elections to the Northern Ireland Assembly were originally scheduled for 1 May 2003, at which time the elections for the Scottish Parliament and the National Assembly for Wales were held and assessed by OSCE/ODIHR. The Northern Ireland Assembly elections were subsequently postponed to the end of May, and ultimately to 26 November. This assessment represents Part 2 of the report published on 28 May 2003, covering the elections for the devolved administrations in Scotland and Wales.

As in the case of the United Kingdom generally, Northern Ireland has a long-standing tradition of elections that are generally well administered. Whereas Scotland and Wales employ an “additional member system” which is a type of proportional representation whereby voters vote for a constituency candidate as well as a regional party list, Northern Ireland achieves proportionality through a Single Transferable Vote (STV) system. Under the STV system, voters in each of the 18 constituencies may rank their preferences among the candidates on the ballot to elect 6 candidates to the 108-member Assembly. The STV system serves to promote pure proportionality in a manner that ensures that every preference expressed in the voting is taken into consideration in the allocation of seats.

New procedures for the registration of voters exclusively for Northern Ireland were implemented for the first time. The reforms were intended to overcome election irregularities that tainted prior elections. Under the new law family registration was abandoned and each person had to register individually. In addition, stringent photo ID requirements have been imposed for registration and for voting. The new register, which reflected about 130,000 or approximate 10% reduction in the number of voters, was generally perceived as being more accurate. However, concerns were expressed that the new ID requirements may have disadvantaged poorer segments of the population as well as elderly and disabled persons who have less access to the documents required.

Five of the 17 political parties participating in the elections presented candidates in all 18 constituencies. Altogether 256 candidates, including 22 independent candidates, competed for the 108 seats in the Assembly. The campaign environment was vibrant and received

* Part 1, Scotland and Wales, was published on 28 May 2003 following OSCE/ODIHR’s Assessment of the Elections held on 1 May 2003.

extensive coverage in both print and electronic media. A broad spectrum of views was presented in the media, which is self-regulated; generally, however, emphasis was placed on the competition between the major parties. The campaigns reflected the clear policy distinctions between unionist and nationalist parties.

Party and candidate agents are allowed at the polls providing a level of transparency that enhances confidence in the process. Regretfully, however, the OSCE/ODIHR Assessment Mission was precluded from observing at polling stations on election day as the current law restricts access to international or non-partisan observers. This practice is contrary to the OSCE commitments for democratic elections acceded to by the United Kingdom.

Although the OSCE/ODIHR Mission was not permitted to visit polling stations on election day, it undertook a review of election day guidelines and training materials. It affirmed that the procedures described are consistent with the law, though certain procedures may warrant review, including processes that could potentially undermine the secrecy of voting, and the treatment of voters waiting in the queue at closing time.

The counting of ballots and determination of the final results were accomplished in the two days after election day. Procedures at the counting centers were well managed, and afforded party and candidate agents and other observers full access to view the ballots as they are counted and to track the results as each phase of distribution of transferable votes was accomplished. The counting process incorporates a verification procedure at every phase promoting widespread confidence in the accuracy of the result.

In total, 63.1 % of the electorate participated in the 26 November Assembly elections in Northern Ireland. In general, the elections were conducted in an orderly and peaceful environment. However, a few random instances of election related violence occurred. The original plan to reduce the presence of police at polling stations was reconsidered when threats were received.

II. BACKGROUND TO THE ELECTION ASSESSMENT MISSION

At the invitation of the UK Foreign and Commonwealth Office, the ODIHR sent a three-person election assessment mission led by Ron Gould (Canada) to the United Kingdom from 23 November to 28 November to assess the 26 November elections to the Northern Ireland Assembly. Mission members met with a broad range of election administrators, officials, political parties, poll workers and counting officials, and the media. Due to its small size and the short duration of the Assessment Mission it was not possible to assess all aspects of the electoral process and the pre-election environment. Likewise, having been precluded from being present at any polling stations, there was not a sufficient basis on which to draw definitive conclusions in regard to the administration of the voting process on the election day. However, access to counting centres was permitted

The ODIHR expresses its appreciation to the UK government and the UK election authorities for their co-operation and assistance during the course of the assessment.

III. BACKGROUND TO THE ELECTIONS

The Election in Northern Ireland on 26 November 2003 represented the 2nd election since the Assembly was first put in place in 1998, immediately following the referendum that led to the overwhelming approval of the Good Friday Agreement.² In that referendum, 81.1 % of the electorate participated and 71.2% of the voters voted in favor of the Agreement. In the 1998 Northern Ireland Assembly Elections the turnout was 69.9%.

However, the elected Assembly and the resulting government have not proved sustainable and suspensions of its authority have ensued. The election to the devolved administration in Northern Ireland was initially scheduled for 1 May 2003 but was subsequently postponed to the end of May, and ultimately to 26 November, in anticipation of successful negotiations between unionist and nationalist factions of the suspended Assembly on the issues of power-sharing, Irish Republican Army disarmament and the end of all paramilitary activity. At the time of the election the 108-member Assembly had been in suspension for the prior 14 months, during which Northern Ireland remained under direct rule from Westminster.

IV. THE LEGISLATIVE FRAMEWORK

In the United Kingdom elections are conducted under a complex combination of Acts that provide a framework for the conduct of democratic elections generally in line with international commitments. Many of the laws prevail throughout the UK. Others have been enacted or adopted specifically for implementation in Northern Ireland (NI). However, one of the challenges faced by election officials is that as Acts have been amended, they have not been re-codified into a single integrated document. For example, the Guide for Candidates and Agents published by the Election Commission references three versions of the Representation of the People Act including the Acts from 1983, 1985 and 2000. These Acts contain a definitive level of detail related to practical matters that might be more suited to regulation by regional authorities.

There are also a significant number of orders, regulations and rules that focus on specific elements of the process. The same guidebook cites the NI Representation of the People Regulations from 2001, as well as the Regulations as they were amended in 2001 and amended again in 2002. Provisions of other Acts specifically related to the conduct of elections in Northern Ireland elections include the Electoral Law Act (NI) of 1962, the Elected Authorities (NI) Act of 1989, and the Northern Ireland Act of 1998. Officials indicated that identifying the most current provisions is sometimes difficult. For example the statutory authority for the appointment of the Chief Electoral Officer must be cited as, "Section 14 of the Electoral Law Act (NI) as substituted by Article 6 of the Electoral Law (NI) Order 1972." Officials acknowledged that in a few instances, complying with one provision can result in a violation of a conflicting provision that was not brought into conformity with the most recent amendments.

² 1998 Multi-party negotiations agreement proposing devolution of some central government power to a Northern Ireland Assembly.

In order to clarify and simplify the legal context for elections, the relevant authorities should consider conducting an in depth review of relevant laws to determine where inconsistencies exist and to encourage the consolidation of legislative Acts. Additionally, the election officials might consider where administrative details currently embedded in the Representation of the People's Act might be repealed and left to the devolved authorities to resolve through orders and regulations.

V. ADMINISTRATIVE STRUCTURES

Among the political participants and the public at large, there appears to be a high level of confidence in the competence and integrity of electoral administrative structures in Northern Ireland, that are firmly established on a civil service model.

A. THE UK ELECTORAL COMMISSION

The Political Parties, Elections and Referendum Act of 2000 established the UK Electoral Commission based in London with subsidiary offices in Northern Ireland, Wales and Scotland. As an independent statutory body accountable only to Parliament, the Commission has the primary responsibility for providing advice and assistance to election officials, parties and candidates. In addition, the Commission has specific responsibility for the registration of political parties and the monitoring of national party campaign spending. The Commission plays a significant role in the conduct of voter outreach, which was a particularly important component of these elections given the major overhaul of the voter registration system. The Electoral Commission, in coordination with the Electoral Office of Northern Ireland (EONI), published a number of well-designed training manuals and handbooks, including editions for Presiding Officers, Poll Clerks, Counting Staff, and Candidates and Agents. A training video was also produced to assist in the training of polling station workers.

B. THE CHIEF ELECTORAL OFFICER AND THE ELECTORAL OFFICE OF NORTHERN IRELAND

Responsibility for the compilation of the voter register and the conduct of elections falls on the Chief Electoral Officer (CEO) who is appointed by the Secretary of State for Northern Ireland, and is supported by the officials of the Electoral Office of Northern Ireland (EONI) based in Belfast and by nine Area Electoral Offices. The CEO is the sole Returning Officer for all elections in Northern Ireland. The Area Election Officers also act as Deputy Returning Officers at the elections. The CEO is responsible for the recruitment, appointment and training of presiding officers and poll clerks for each polling station. For these elections 600 facilities were selected as sites for approximately 1500 polling stations established for the elections. Typically, each polling station served about 700 voters.

The recruitment and retention of a sufficient number of poll workers proved difficult in spite of a recruitment campaign that included notices on the Internet. The difficulty was attributed to inadequate compensation for the hours involved in attendance at training, pre- and post-polling duties, and the 15-hour polling day. Officials also see a downturn in the willingness of people to serve due the diminishing availability of the traditional pool of poll workers and the general changes in lifestyles and work schedules, particularly in the case of younger

workers. It may prove beneficial to retain a reserve of trained poll workers to be on call on election day. These reserves could be readily deployed in the event of “no-shows” or cancellations.

VI. VOTER REGISTRATION

Whereas in Scotland and Wales there was no centralized system of registration or standardized format for the registers, in Northern Ireland a new computerized program was designed whereby the entire register of voters for all constituencies is maintained by the EONI in a single database. Each Area Electoral Office is linked to the central system and generates the polling station registers for its constituencies.

A. THE ELECTORAL FRAUD ACT

The Electoral Fraud Act, enacted in May of 2002, established a new procedure for the registration of voters, exclusively for implementation in Northern Ireland. Most parties supported the introduction of reforms as a means of eliminating instances of impersonation, duplicate registrations and fraudulent voting that had allegedly occurred in previous elections. For the first time, each person was required to register individually rather than through the completion of a single form by one person on behalf of all other members of the household. Applicants are required to personally sign their applications and provide personal information including National Insurance Number, and details of other households where they might have been registered.

In addition, stringent photo ID requirements have been imposed for registration and for voting. Only four types of photo ID are acceptable, including a current NI or Great Britain driver's license, a current UK or European Union passport, Senior "Smart Pass" card issued under the NI Concessionary Fares Scheme, or a special Electoral Identify Card provided by the Election Office. In 2003, approximately 87,000 Electoral Identity Cards were issued. Without one of these specific documents a person is not allowed to vote.

An annual canvas is accomplished in the fall of each year for compilation of the voter register. Each person is required to re-register annually. Such a practice may prove over burdensome not only for voters, but also for administrators. It might be preferable to use the annual canvas as a means of “confirming” each person’s registration so that respondents indicating there are no changes in their status or address do not have to reregister.

At present, registration is compulsory in Northern Ireland. Eligible adults who fail to register are subject to a fine up to £1000. This provision is rarely if ever enforced. Where legal requirements are ignored, credibility of other aspects of the process is affected. It would be advisable to repeal this provision.

B. THE VOTER REGISTER FOR THE 2003 ELECTIONS

The register used in these elections reflected about a 130,000 or 10% reduction in the number of voters, which is generally being attributed to the elimination of duplicates and registrations of voters who have moved away. During the “rolling” registration period approximately

25,000 voters were added, resulting in a final register of 1,097,526 voters. Critics complained that reduction in the number of voters was probably higher, when compared with the number of age-eligible persons enumerated on the most recent census. One of the most widely expressed concerns was that the new requirements have negatively impacted populations who because of age, disability, or economic disadvantage have less access to the documentation required. It has also been suggested that some voters who had registered in the past may have chosen not to register because of their apprehensions over the disclosure of their personal information and their National Insurance Number, in particular. Under the law voter information can be shared with police and financial institutions and used for other than electoral purposes.

To ease these concerns it could be recommended to introduce a few amendments to the law to ensure that the data collected is to be used for election purposes only and that certain identifiers will remain confidential; and, that instead of requiring the full National Insurance Number, only the last four digits are required. Statistically, with a name, birth date and last 4 digits of such a number, a direct match of any individual voter for identification purposes or to distinguish one voter on the list from another should be sufficient.

Postponement of the elections may also have confused voters as to the deadline for registration. For these elections, the closure and publication of the list was 1 September 2003. The list was based on the register compiled in the fall of 2002 and published in December of that year. "Rolling" or open registration continued until 1 September 2003 to enable people to complete or change their registration. The final deadline for these elections was nearly 2 months before election day, closing the opportunities for voters who moved in that period to vote in the elections in their new constituencies. Their only option was to return to their former precincts to vote. Ideally, the deadline and closure of the register period should be closer to election day, and only long enough to accommodate the printing and distribution of precinct registers. A deadline of no more than 30 days before an election is generally accepted as a "best practice" standard.

In spite of the concerns that have been raised, there is general consensus that the new register is more accurate and that the reforms have been successful in reducing opportunities for fraud. In addition, all parties expressed the view that the public awareness campaign organized by the election authorities gave voters extensive information about the new requirements. Likewise, the canvas, follow-up and use of mobile units organized by the EONI provided voters the full opportunity to register.

VII. THE ELECTION PROCESS

Northern Ireland is divided into 18 constituencies, in each of which voters elect 6 candidates to the 108-member Assembly. A Single Transferable Vote System (STV) is used, whereby voters may rank their preferences among the candidates on the ballot. Votes for lower ranked preferences are redistributed in sequence based on a statutory formula taking into consideration surplus votes won by candidates over the quota needed to win a seat, and as candidates achieving an insufficient number of votes are eliminated. Although this complex system may not be thoroughly understood by the majority of voters, in two referendum elections voters chose to retain the STV system rather than reverting to a first-past-the-post

(FPTP) system. However, the FPTP system of voting is used in electing the United Kingdom Parliament.

Voters may also apply to cast their ballots by mail, or may appoint a proxy to vote on their behalf. Once a postal ballot has been issued, the voter may not vote at the polls, even if they do not use their postal ballots. New, more stringent application procedures resulted in a significant reduction in the number of voters voting by postal ballots which were perceived to have been subject to abuse in prior elections. Once the deadline for appointing a proxy has passed a voter cannot rescind the appointment. If a voter chooses to vote in person he or she can only vote if the proxy has not already cast the ballot in his or her place.

A. PROCEDURES AT THE POLLS

As already stated UK legislation did not permit the OSCE/ODIHR Assessment Mission to observe the proceedings at the polling stations. However, a review of the guidelines and training materials affirmed that the procedures described are consistent with the law. There is sufficient documentation maintained to provide an auditable record of all polling activity. The processing of voters involves requesting the voter to present photo identification, finding the voter's name on the voter register and making a mark next to the voter's name before ballots are issued. Each ballot is stamped with a perforating tool before it is issued. The voter marks the ballot in secret and then deposits it into the ballot box in view of the official. A voter who is not on the list, or who cannot provide any of the 4 authorized identification documents may not vote. A voter or a proxy who finds that the voters' name has already been marked in the register may be offered a tendered ballot that, once marked, is retained in a special envelope rather than being deposited in the ballot box. The tendered ballot process may be misleading to the voter or proxy since a tendered ballot is not usually counted and could be used only in case of challenging of election results at the court.

Polling hours are exceedingly long with polls opening at 7 a.m. and closing at 10 p.m. Under the law only those voters who have been issued a ballot by 10 p.m. are allowed to vote after the closing hour. Any other voters waiting in the queue are turned away. It would be preferable if every elector in line at closing time were allowed to vote, to ensure that no voter is disenfranchised due to delays in the processing of voters inside the polling station.

B. SECRECY OF VOTE

Concern over procedures that could jeopardize the secrecy of each person's vote have been muted by a long history of public confidence in the integrity of the elections and the civil servants that manage them. As each ballot is issued, the individual's voter number is written onto the serially numbered counterfoil. The same serial number is printed on the back of the ballot meaning that each ballot can be traced to the individual who cast it. In the case of tendered ballots, the name of the voter is written on the ballot itself. It is recommended that other ballot tracking alternatives which protect the secrecy of vote be considered. Furthermore, it is recommended that tendered ballots be placed in separate envelopes on which the official's signature and the voter's name can be placed, instead of the ballot itself. A review of the usefulness of the tendered ballot should be undertaken to assess whether they should be eliminated altogether.

C. OBSERVERS

In keeping with the OSCE and other international commitments and standards, the laws of United Kingdom should be amended to provide for the presence of international and domestic non-partisan observers. *(This issue is currently under consideration. The UK Electoral Commission recommended the relevant amendments to be introduced in the legislation).* Current laws are very restrictive regarding the admission of observers at the polling stations. Aside from Deputy Returning Officers and their staff, and police officers, only candidates and their agents are admitted. By special order the UK Electoral Commission was authorized to be present during the polling.

Regarding the role of the candidates' agents, the emphasis is placed on their preparedness to challenge voters who are perceived to be impersonating voters on the voter list. Laws prohibit any information from leaving the polling station, however, several parties acknowledged that agents release information about who has or has not voted to party members waiting outside the polling station so that efforts can be made to get late voters to the polls.

D. COUNTING OF VOTES

The Assessment Mission observed the counting process at 2 counting centers covering 6 constituencies. Counting was accomplished in the two days immediately after Election Day. Procedures at the counting centers were well managed, and afforded party and candidate agents and other observers full access to view the ballots as they are counted and to track the results as each phase of distribution of transferable votes was accomplished. Every step in the process includes verification by a second counter or team of counters ensuring accuracy in the results.

After each phase in the distribution of votes, candidates or agents can request a recount, although such requests are rare. While the counting process was perceived in many quarters as slower than usual, there is a generally accepted tolerance for the final announcement of results two days after the election. Invalid ballots made up 1.4% of the ballots cast; on most of the invalid ballots the voter had marked the ballot with an "X" instead of with numbers ranking their preferences. This may be a reflection of confusion since the UK Parliamentary elections are voted in this manner.

VIII. CAMPAIGNS AND THE MEDIA

In general, the elections were conducted in an orderly and peaceful environment. However, the original plan to reduce the presence of police at polling stations was reconsidered when threats were received and after an explosion occurred near a military installation near Londonderry just before the election. Officials at one polling station were assaulted while transporting the ballot box to the counting center. As a precaution the Dromore counting center was sealed off for a short time on the second day of counting although counting was not interrupted. Authorities were successful in dealing with these incidents, and although the

police presence at polling stations is normally not encouraged, in this context it was generally perceived as a needed feature of election management.

The election was hotly contested by the parties and candidates competing. Some parties waged extensive door-to-door campaigns that were perceived as instrumental in their success in the election. The campaigns continued through election day and there were concerns that voters were pressured by party activists as they tried to enter the polling stations to vote. Currently there are virtually no restrictions on the campaign activities of party supporters outside polling stations on election day. To minimize undue influence or pressure on voters, the law should be amended to restrict campaign activity on election day or to prohibit such activities within a certain distance from the entrance to the polling station.

In Northern Ireland, as in all of the United Kingdom, media freedom is well entrenched. The public has access to a broad spectrum of views and information through the mass media. Paid political advertising is prohibited in the electronic media, however the pre-election period and political campaign activities of the parties and candidates were well covered. The media is self-regulated and broadcasters are required to adopt internal guidelines for providing equitable coverage to the political participants. In the days immediately preceding the elections there were nightly debates on television in which party leaders from the larger parties participated. Generally, the four major parties received the most coverage followed by other parties represented in the Assembly. Smaller parties complained that they had difficulty getting the coverage needed to advance their agendas.

There was almost universal consensus among the parties with whom the Assessment Mission met that to a great extent the media was setting the agenda for the campaign. Attempts to get coverage related to a party's program on health care, employment or other domestic issues were thwarted by continued focus on the constitutional issue with emphasis on the distinctions between unionist and nationalist parties and the growing divisions among unionists, in particular. More significantly, the election campaigns and media focus centered on the widening gap between pro- and anti- Agreement forces. At stake was not only question of electing a functioning Assembly and, therefore, a sustainable government, but the future of the Good Friday Agreement itself.

The tone of the campaign and uncertainty about the future of the Assembly may have contributed to the decline in voter turnout, which dropped from 68.8% in the 1998 elections and 68% in the Westminster election in 2001, to 63.1% in these elections. In total, 20 women were elected to the 108-member Assembly.

The primary contest between pro- and anti-Agreement factions in these elections tended to polarize the vote, resulting in a swing away from the centrist parties in favor of the more hard line parties on either side of the issue, with a loss of seats among smaller parties elected in 1998.

APPENDIX I

RESULTS OF THE NORTHERN IRELAND ASSEMBLY ELECTIONS 2003

<i>Party</i>	<i>Seats Held Prior to Election*</i>	<i>Seats Held Based on 2003 Election Results</i>
Ulster Unionist Party	28	27
Social Democratic and Labor Party	24	18
Democratic Unionist Party	20	30
Sinn Fein	18	24
Alliance Party	6	6
Independent Unionist	3	0
Progressive Unionist Party	2	1
Women's Coalition	2	0
United Kingdom Unionist	5	1
Others	0	1

- These figures are based on the number of seats held by the parties prior to election and reflect the shifts in allegiances that had occurred within the Assembly since the 1998 elections.
- 20 women were elected to the Assembly.

ABOUT THE OSCE/ODIHR

The Office for Democratic Institutions and Human Rights (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 Document).

The 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 100 staff.

The ODIHR is the lead agency in Europe in the field of **election observation**. It co-ordinates and organizes the deployment of thousands of observers every year to assess whether elections in the OSCE area are in line with national legislation and international standards. Its unique methodology provides an in-depth insight into all elements of an electoral process. Through assistance projects, the ODIHR helps participating States to improve their electoral framework.

The Office's **democratization** activities include the following thematic areas: rule of law, civil society, freedom of movement, gender equality, and trafficking in human beings. The ODIHR implements more than 100 targeted assistance programs, seeking both to facilitate and enhance State compliance with OSCE commitments and to develop democratic structures.

The ODIHR monitors participating States' compliance with OSCE human dimension commitments, and assists with improving the protection of **human rights**. It also organizes several meetings every year to review the implementation of OSCE human dimension commitments by participating States.

The 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. The Office also acts as a clearing-house for the exchange of information on Roma and Sinti issues among national and international actors.

All ODIHR activities are carried out in close co-ordination and co-operation with OSCE institutions and field operations, as well as with other international organizations.

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