

OSCE/ODIHR Submission of Information about an OSCE Participating State under Consideration in the Universal Periodic Review Process

Participating State: France

UPR Working Group Session and Date of Review: 43rd Session, February 2023

Background

1. France has been a participating State (pS) in the former Conference for Security and Co-operation in Europe (CSCE) and the present Organization for Security and Co-operation in Europe (OSCE) since 1973, and has thus undertaken and recently reaffirmed a wide range of political commitments in the “human dimension” of security as outlined in relevant OSCE Documents.¹
2. The OSCE Office for Democratic Institutions and Human Rights (ODIHR) has been mandated by OSCE pSs, including France, to assist them in implementing their human dimension commitments. ODIHR assistance includes election observation and assessment activities as well as monitoring and providing assessments, advice and recommendations relating to implementation of commitments in the fields of human rights, democracy, tolerance and non-discrimination, and the situation of Roma and Sinti.
3. The present submission provides publicly available country-specific information that may assist participants in the Universal Periodic Review process in assessing the situation in France and its implementation of past recommendations, as well as to formulate new recommendations that may be relevant to enhancing the enjoyment of human rights and fundamental freedoms in France.

Election-related activities

4. ODIHR has assessed several elections in the country, most recently the 2022 presidential and parliamentary elections. The findings of the Election Assessment Mission (EAM) were presented in its Final Report for the 10 and 24 April elections.²

Presidential election, 10 and 24 April 2022

5. Following an invitation from the authorities of France and based on the findings and conclusions of Needs Assessment Mission (NAM) conducted from 7 to 11 February 2022, ODIHR deployed an Election Assessment Mission (EAM) to observe the 10 and 24 April presidential election. The ODIHR EAM assessed compliance of the electoral process with OSCE commitments and other international obligations and standards for democratic elections and with national legislation. In line with the ODIHR’s methodology, the EAM did not undertake a comprehensive and systematic observation of Election Day procedures.
6. The ODIHR EAM concluded the “election was held in a competitive and pluralistic environment, where fundamental freedoms were respected. Voters were provided with ample and diverse information enabling them to make an informed choice among 12

¹ OSCE ODIHR, *Compendium of OSCE Human Dimension Commitments: Volume 1, Thematic Compilation (third edition)*, and *Volume 2, Chronological Compilation (third edition)*, 2011; OSCE *Astana Commemorative Declaration: Toward a Security Community*, 3 December 2010.

² See [ODIHR EAM Final Report for 10 and 24 April 2022 presidential election](#)

candidates registered in an inclusive manner. While some technical aspects could be improved, the election was effectively administered and enjoyed a high level of public trust.”³ The final report of the EAM made 16 recommendations:

- Consideration should be given to consolidating the electoral legal framework, particularly by integrating the executive regulations pertaining to key aspects of the electoral process into one comprehensive piece of legislation.
- Consideration could be given to mandatory training of polling board chairs to ensure effective and consistent management of election day proceedings
- In line with OSCE commitments, gender disaggregated data with regards to the electoral process should be made available in a comprehensive manner
- As previously recommended, consideration should be given to cancelling proxy voting and exploring alternative voting methods which duly uphold OSCE commitments and other international standards.
- Consideration could be given to continued efforts to ensure independent participation in public life of persons with intellectual or psychosocial disabilities
- Legal provisions on the use of public resources by presidential candidates should be clarified to prevent the misuse or perception of such misuse during the campaign
- In order to eliminate the possibility of circumventing campaign ceiling, the legislation could comprehensively regulate campaigning by the third parties, including their campaign finance reporting within the timeframe applicable to candidates
- To enhance transparency, consideration should be given to requiring preliminary disclosure of itemized campaign contributions and expenditures by contestants prior to election days
- In order to further enhance transparency and accountability, the reporting deadlines for political parties’ campaign expenditures could be synchronised with those for candidates to allow effective oversight.
- In order to protect media pluralism, existing legal framework regulating media concentration could be reviewed and adapted to the current state of the media industry. Authorities should revise methodologies to assess the concentration of media ownership, including the influence of individual outlets and the aggregated influence of a media outlet/group across different types of media.
- Authorities should consider decriminalizing defamation in order to bring the relevant legal framework in line with international standards on freedom of expression. Measures should be put in place to protect media from strategic lawsuits to deter the abuse of this practice.
- Existing regulation on equitable and equal campaign coverage should be reviewed to take into account the online services of audio-visual media.

³ *Ibid.*

- To enhance the opportunity of voters to be informed about and compare electoral programmes of the contestants, the organization of a debate between first round presidential candidates could be considered.
- To ensure the effective resolution of election disputes, consideration should be given to the timeline for consideration of disputes between the first and second round and the finalization of results to ensure the Constitutional Council has sufficient time for review.
- To ensure effective and accessible legal redress, the authorities could consider decentralizing adjudication of complaints against election results, so that each complaint is adjudicated in first instance within adequate deadlines before a final appeal to the Constitutional Council. Hearings of complaints and appeals should be public, offering all sides the opportunity to be heard and observing procedural safeguards.
- As previously recommended, the law should be revised to guarantee the access of citizen and international observers to all stages of the electoral process.

Tolerance and non-discrimination issues

7. OSCE pSs have made a number of commitments to promote tolerance and non-discrimination and specifically to combat hate crime, and ODIHR supports states in their implementation of those commitments.⁴ In this context, ODIHR produces an annual report on hate crime⁵ to highlight the prevalence of hate crimes and good practices that pSs and civil society have adopted to tackle them. ODIHR also helps pSs design and draft legislation that effectively addresses hate crimes; provides training that builds the capacity of pSs' criminal justice systems and the law-enforcement officials, prosecutors and judges that staff them; raises awareness of hate crimes among governmental officials, civil society and international organizations; and supports the efforts of civil society to monitor and report hate crimes.
8. In respect of the 2020 Hate Crime Report and ODIHR's key observations,⁶ ODIHR recognized France's efforts in the area of hate crime specialization in prosecution. However, based on the available information, it observed that: since 2016, France has not reported data on hate crimes recorded by the prosecution and judiciary to ODIHR, thus is recommended that France should raise the awareness and building the capacity of criminal justice officials about hate crimes.

⁴ OSCE participating States have committed to strongly condemn racial and ethnic hatred, xenophobia, discrimination, anti-Semitism and intolerance against Muslims, Christians and other religions, and have committed to address these phenomena in all their forms (Copenhagen Document, 1990). Since 2003, the OSCE participating States have established a normative framework of OSCE Ministerial Council (MC) decisions to reflect their commitments to address these phenomena: MC Decisions 4/03, 12/04, 10/05, 13/06, 10/07 and 9/09. Additionally, a number of OSCE human dimension commitments recognize the vital importance of participating States' realization of their binding human rights obligations under international treaties, such as the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR).

⁵ <http://hatecrime.osce.org>.

⁶ Findings on the information available to ODIHR on hate crimes in a particular participating State in relation to OSCE commitments are presented as Key Observations. There are, in total, 13 Key Observations linked to OSCE participating States' commitments in the area of addressing hate crime. <https://hatecrime.osce.org/our-methodology>. This methodology has been in place since the 2020 Hate Crime Report.

9. ODIHR's 2020 publication "OSCE Human Dimension Commitments and State Responses to the COVID-19 Pandemic"⁷ reported that intolerance and discrimination was significantly directed towards people of, or perceived to be of, Asian descent in the early phase of the pandemic, including some more serious cases in France. Jewish communities in France were also targeted by anti-Semitic scapegoating related to Covid-19, and various other expressions of anti-Semitism, including hate crime.
10. In France, heavy-handed law enforcement raids, meant to monitor the implementation of restrictive pandemic-related policies, disproportionately affected minority communities, including instances of police violence. This was particularly the case with Roma communities, persons of African descent or those of migrant background.
11. ODIHR's recommendations to France on the basis of this publication include:
 - Respond swiftly to hate crimes, including those motivated by gender or sex, to record and investigate them so that the perpetrators can be brought to justice and adequate penalties imposed. Support victims as they report their experiences, and ensure the availability of all necessary psychological, social and legal support for victims, including through close co-operation with civil society. Relevant authorities should also publicly condemn any such acts and ensure that perpetrators are brought to justice.
 - Consider, where states have not done so, providing the possibility to report hate crimes online and allowing third-party reporting to police by civil society groups and equality bodies.
 - Ensure that the consequences of the current pandemic, including the economic crisis, do not affect states' capacities to provide support to victims of hate including through appropriate funding to non-state actors and civil society organizations.
 - Build law enforcement and justice sector capacities to recognize and effectively investigate hate crimes and to ensure that specialized training, focused on hate crime victims and their needs, is provided for officials and civil society organizations within the victim support structures. Enact policies, through inter-agency co-operation, to address hate crimes in a comprehensive manner.
 - Celebrate and harness the strength of diversity within the pS, as a means of overcoming current and forthcoming social and economic challenges of the pandemic.

⁷ Organization for Security and Co-operation in Europe, *OSCE Human Dimension Commitments and State Responses to the Covid-19 Pandemic*, Warsaw, 17 July 2020,