



Office for Democratic Institutions and Human Rights

# REPUBLIC OF AUSTRIA

## PRESIDENTIAL ELECTION

### REPEAT SECOND ROUND

4 December 2016

OSCE/ODIHR Election Expert Team  
Final Report



Warsaw  
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**REPUBLIC OF AUSTRIA  
PRESIDENTIAL ELECTION  
REPEAT SECOND ROUND  
4 December 2016**

**OSCE/ODIHR Election Expert Team Final Report<sup>1</sup>**

**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 Expert Team (EET) to observe the repeat second round of the presidential election held on 4 December 2016, with a special focus on the legal framework for postal voting and election day procedures.

The repeat second round of the election was administered in an efficient and professional manner. The election took place against the backdrop of the annulment of the 22 May second round election results by the Constitutional Court primarily over procedural irregularities in administering the counting of postal votes. Subsequently, the repeat second round initially scheduled for 2 October was postponed due to the poor quality of glue used for the postal voting envelopes. These developments may have detracted from an otherwise high public confidence in the efficiency of the election administration.

The legal framework provides a sound basis for the conduct of democratic elections and was essentially unchanged for all rounds of the election. However, in a move broadly supported by parliamentary parties, the Constitution was amended to allow those voters included in the voter lists after the first round of the election to take part in the vote. In total, some 6.4 million citizens were registered to vote on 4 December, including 56,539 citizens residing abroad. No concerns were expressed regarding the overall accuracy and inclusivity of the voter lists.

The Federal Election Board supervises the work of a five-tiered election administration that mirrors the governance structure. The Federal Ministry of Interior (MoI), which takes the lead on technical preparations, issued comprehensive guidelines for election boards that specifically addressed irregularities identified by the Constitutional Court and focused on clarifying election day and postal voting procedures. Other measures included the introduction of cascade training of members of election boards, online e-learning courses and a call-centre to respond to queries. These measures were considered comprehensive and useful by election boards and parties met with by the OSCE/ODIHR EET.

In line with the OSCE/ODIHR's methodology, the OSCE/ODIHR EET did not undertake a comprehensive and systematic observation of election day procedures. However, the EET members visited a number of polling stations and intermediate election boards in Styria and Tyrol around election day. Overall, the election boards visited were well prepared and organised the electoral process, including the counting of postal votes, efficiently, transparently, and collegially.

The result of the election was announced on 15 December, with the voter turnout reported at 74.21 per cent. A total of 651,726 voters (13.72 per cent of participating voters) cast a postal ballot of which a relatively high proportion (5.25 per cent) were deemed invalid, largely due to the absence of voters' signature confirming that the vote had been made personally and in secret.

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

On 7 December, the parliament promulgated legislation to create a unified centralized voter register, as previously recommended by the OSCE/ODIHR, that will come into effect on 1 January 2018. Further electoral reform efforts are widely expected to commence soon after the election. The OSCE/ODIHR stands ready to assist this process, including the follow-up of recommendations included in this and previous OSCE/ODIHR reports.

## II. INTRODUCTION AND ACKNOWLEDGEMENTS

Following an invitation from the Austrian Federal Ministry for Europe, Integration, and Foreign Affairs (MFA) to observe the repeat second round of the presidential election and based on the recommendation of a Needs Assessment Mission conducted from 25 to 26 August, the OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR) deployed an Election Expert Team (EET) from 28 November to 9 December. The OSCE/ODIHR EET consisted of four experts from four OSCE participating States. The EET was based in Vienna and also made visits to the provinces of Styria and Tyrol.

The OSCE/ODIHR EET assessed the legal framework in respect of postal voting and election day procedures. This report is therefore limited in scope and does not offer an overall assessment of the electoral process. The specific area under review was assessed for its 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 EET did not observe election day proceedings in a systematic or comprehensive manner, but visited a limited number of polling stations. This report should be read in conjunction with the 2016 OSCE/ODIHR NAM reports, which provide additional details on the broader electoral process in Austria.<sup>2</sup>

The OSCE/ODIHR EET wishes to thank the 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 republic consisting of nine provinces. The federal president is head of state and directly elected for a six-year term, with a limit of two consecutive terms. If no candidate obtains a majority of valid votes in the first round, a second round is held between the two candidates who received the largest number of votes. The president formally holds significant powers; she/he appoints the federal chancellor and ministers, is commander-in-chief of the armed forces and may dissolve parliament. In practice, however, the president is often expected to follow the recommendations of the government, to act in a consultative manner, and provide moral leadership to the country.

In the first round held on 24 April, six candidates contested the election. Mr. Norbert Hofer of the Freedom Party of Austria (FPÖ) received 35.05 per cent of the valid votes, with Mr. Alexander Van der Bellen, a member of the Green Party contesting as an independent, followed in second place with 21.34 per cent. A second round was held on 22 May between Mr. Hofer and Mr. Van der Bellen. According to the final results published on 1 June, Mr. Van der Bellen received 50.35 per cent of votes, and Mr. Hofer 49.65 per cent, with a difference of 30,863 votes.

On 8 June, Mr. Hofer's representative challenged the election results at the Constitutional Court (Court), claiming that provisions regarding postal voting were unconstitutional and that the election

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

results had been affected by irregularities in administering certain aspects of the election. The complaint, in particular, noted non-adherence to general procedures for the receipt, storage, and counting of postal votes, as well as the transmission of partial election results by the Federal Election Board (FEB) to media before voting had concluded throughout the whole country.

During its hearings on the complaint, the Court found a variety of procedural infringements in the counting of voting cards used for postal voting, including: premature opening of voting cards by District Election Boards (DEBs) or by civil servants when received from the post office (prior to the 23 May 09.00 legal deadline); the opening of voting cards by the DEB chair and auxiliaries without inviting the DEB members; not informing the DEB about the reasons for invalidating voting cards; preparing official minutes of electoral board proceedings which had in fact not taken place.<sup>3</sup>

The Court's ruling on 1 July noted that there was no evidence of any fraud on election day or afterwards.<sup>4</sup> However, taking into account that identified procedural infringements affected 77,926 votes, which was greater than the margin of victory, the Court held that this could potentially have had an influence on the final results, irrespective of whether manipulations actually occurred or not. Also, the Court ruled that the sharing of partial election results by state authorities before the nationwide close of polls was unconstitutional. On these grounds, the Court annulled the election results and ordered the authorities to repeat the second round throughout the country. The government subsequently called for a repeat second round of the election on 2 October.

In the beginning of September, after the distribution of voting cards to voters had begun, the MoI learned about technical deficiencies with the envelopes to return completed postal ballots (voting cards). Some voters reported that the adhesive that glued the outer envelope was ineffective and could fail to properly secure the completed ballot, potentially rendering the returned ballot invalid and excluding it from the count. On 12 September, the MoI announced that the repeat second round would be postponed due to the poor quality of glue used for the voting cards.<sup>5</sup> On 21 September, parliament postponed the election until 4 December.<sup>6</sup>

Some OSCE/ODIHR EET interlocutors found that the otherwise high public confidence in the efficiency of the election administration had been negatively affected by the need to postpone the repeat second round due to the sub-standard quality of voting cards.

## IV. POSTAL VOTING AND ELECTION DAY PROCEDURES

### A. LEGAL FRAMEWORK

Overall, the legal framework provides a sound basis for the conduct of democratic elections. The 4 December repeat second round of the election was held under legal framework consisting primarily of the 1929 Constitution, the 1971 Presidential Election Law, the 1992 Parliamentary Election Law (all last amended in 2016). The laws are supplemented by the MoI instructions. The case law of the Constitutional Court also forms an important part of the legal framework. While the interaction of these

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<sup>3</sup> Voting cards which lack a signature (oath), are damaged, and for other reasons, as listed in Article 10.5 of the Presidential Election Law, are to be deemed void and excluded from the counting process.

<sup>4</sup> See the [Constitutional Court Ruling](#) (in German only).

<sup>5</sup> The MoI requested an investigation of the reasons that led to the deficiency of the glue, which was ongoing as of the OSCE/ODIHR EET presence in the country.

<sup>6</sup> While the Social Democratic Party, the Peoples Party, the Greens, and the New Austria and Liberal Forum supported the postponement, the FPÖ and Team Stronach voted against.

and other laws and provisions results in generally clear and consistent rules, the lack of a consolidated law might make them difficult to access.<sup>7</sup>

In its 1 July ruling, the Court emphasized that electoral laws must be strictly applied. It also clarified that media representatives are considered unauthorized persons to access polling stations on election day. Some OSCE/ODIHR EET interlocutors argued that this strict interpretation of the law would result in less engaging news coverage of election day proceedings, but no major concerns were voiced on election day or in the immediate post-election period.

Some changes were introduced to the legal framework following postponement of the repeat second round. In a broadly supported move, the parliament amended the Constitution in order to allow citizens who got citizenship and turned 16 after the first round of the election to take part in the vote.<sup>8</sup> The Presidential Election Law was amended to reintroduce an old model of the voting card without a personal data protection flap for this election.<sup>9</sup> In addition, voters were provided with the option to insert their ballot envelope in the ballot box on their own.<sup>10</sup> The law was also amended to follow up on the Court ruling clarifying that DEB chairs do have the right to engage and involve auxiliaries when opening, sorting, and counting postal ballots as long as their work is supervised by the DEB.<sup>11</sup>

On 7 December, the parliament promulgated legislation to create a centralized voter register, as previously recommended by the OSCE/ODIHR, which will come into effect on 1 January 2018. The aim is to enhance the efficiency of voter registration management, as well as to allow for the introduction of a countrywide electronic system for enabling the support of public initiatives online.

## **B. ELECTION ADMINISTRATION**

Elections are carried out by a five-tiered election administration that mirrors the governance structure. It comprises the FEB, 9 state election boards (SEBs), 117 DEBs, 2,100 municipal election boards (MEBs), and some 10,300 polling station boards (PSBs). Civil servants at each level of government provide assistance to their respective election boards. The FEB is responsible for supervising the work of all other election boards. It consists of 17 members, with the Federal Minister of Interior acting as chairperson. Three members of the FEB as well as four substitute members were current MPs, potentially raising concern about the perceived impartiality of the election administration. The MoI acts as FEB secretariat and takes the lead on technical preparations, issues instructions, and provides training and voter education materials.<sup>12</sup>

*As previously recommended, consideration could be given to restricting elected officials from directly serving on election boards, in order to safeguard the impartiality of the election administration.*

Parliamentary parties can appoint election board members, known as assessors, and substitutes, while non-parliamentary parties are entitled to appoint observers (known as ‘witnesses’). Lower-level election boards have nine members (except PSBs which have three) in addition to a chairperson, who is head of the respective local government or a person selected by her/him. All members have voting

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<sup>7</sup> Other applicable laws are the 1953 Law on Constitutional Court, 1947 Prohibition Law, 1973 Law on the Electoral Register, 2012 Political Parties Law, and 2012 Federal Law on Financing of Political Parties.

<sup>8</sup> According to the then applicable legal provisions, the same voter lists as finalised before the first round of the election would have been used for the repeat second round.

<sup>9</sup> The Presidential Election Law was also amended to provide for the retrieval, safekeeping, and destruction of the voting cards distributed for the 2 October voting.

<sup>10</sup> Previously, the law tasked the chair of the polling station to cast the envelope into the ballot box.

<sup>11</sup> Auxiliaries – usually civil servants at each level of government – assist the respective level of election board within limits established by the law and laid out in MoI instructions.

<sup>12</sup> The MFA is involved in facilitating voting by citizens abroad.

rights; in case of a tied decision, the chairperson's vote is decisive. Election board members from parliamentary parties are appointed in proportion to their share of the vote in the last parliamentary elections.<sup>13</sup> A range of OSCE/ODIHR EET interlocutors noted that it is increasingly difficult to find sufficient persons willing to serve as members. There are no measures in place to promote gender-balanced representation in election boards and gender disaggregated data of the composition of election boards is not systematically collected.<sup>14</sup>

*The authorities should consider ways to ensure sufficient numbers of election board members are recruited. This may involve enhancing incentives and/or broadening membership beyond party nominated persons. Efforts should be made to promote gender-balanced representation in election boards, with gender disaggregated data on the composition of election boards made publicly available.*

The MoI responded to the Constitutional Court ruling by requesting provincial governments to examine the professional behaviour of district election officials during the second round. On 18 July, the FEB requested subordinate election boards to intensify information flows and enhance training of election board members. The MoI subsequently issued comprehensive official guidelines for election boards, which specifically addressed irregularities identified by the Court and focused on clarifying election day and postal voting procedures.<sup>15</sup> Other measures included the preparation of online e-learning courses aimed at members of DEBs and PSBs and setting up a call-centre to respond to queries. Members of election boards and party representatives met with by the OSCE/ODIHR EET considered that these measures were comprehensive and useful.<sup>16</sup>

In a further response to the Court ruling, the MoI requested election officials at all levels to refrain from announcing any preliminary outcome of a vote count prior to the closing of the last polling station in the country. The MoI informed the OSCE/ODIHR EET that the request was followed and no results were prematurely announced.

### C. POSTAL VOTING

In total, some 6.4 million citizens were registered to vote on 4 December, including 56,539 citizens residing abroad. Eligible voters, who are not able to vote in front of an electoral board, for reason of health or absence from the country, have the right to vote by postal ballot (voting card). Also persons who expect to be travelling on election day may apply for a voting card. Voters in prisons, detention centres, care homes and hospitals, as well as homebound voters may also use voting cards.<sup>17</sup>

Applications for a voting card could be done in person, in writing or online.<sup>18</sup> According to the Constitution, applicants must indicate the reason and prove their identity *prima facie*. After the card is issued, the voter list is marked and the voter is then only allowed to cast a ballot with the voting card. Postal voting takes place according to a 'double envelope' system. Voting cards consist of an outer envelope containing the official ballot paper and an inner envelope that was either white (first round) or

<sup>13</sup> Members of SEBs, DEBs, and MEBs are appointed by the legislature or council at the respective level. The party's entitlement corresponds to its 'local' share of the vote in the previous parliamentary elections.

<sup>14</sup> Only 2 out of 17 FEB members are women. Out of 117 DEBs, women held 34 chair (29 per cent) and 33 deputy chair positions (28 per cent). No data was available on the gender composition of lower-level election boards. The 1997 CEDAW Committee General Recommendation No. 23 provides that "States parties should... include statistical data, disaggregated by sex, showing the percentage of women relative to men who enjoy those rights [to perform all public functions at all levels of government]".

<sup>15</sup> Several DEB chairpersons remained under investigation for their role in the infringement of the counting procedures of postal ballots on 22 May 2016, which led to the cancellation of the second round election results.

<sup>16</sup> Both candidates' campaign teams produced additional training material for their assessors and witnesses.

<sup>17</sup> Persons with a legal residence in a care home vote in the same manner as regular voters at polling stations, unless they lack mobility, in which case the special PSB visits them.

<sup>18</sup> The deadline for voting card applications was 30 November (in writing or online) and 2 December (in-person).

beige (second round), to avoid confusion. Upon receipt of the voting card, the voter completes the ballot and seals it inside the inner envelope, which is placed within the outer envelope for return. Voters must sign an oath on the outer envelope that the ballot was marked in person, confidentially, and without influence.<sup>19</sup> Otherwise the postal vote is deemed void and not included in the count.

The OSCE/ODIHR EET was informed that while municipal authorities have no means to verify the truthfulness of the reason given for requesting a voting card, they could reject applications for any reason other than those specified in law including the refusal of the applicant to state a reason. Following a media report that it was possible to obtain a voting card through an online application using a fictitious passport number, the MoI instructed all municipalities to verify the validity of the identity document number with the competent national authorities or directly via the national database.<sup>20</sup> While some municipalities informed the OSCE/ODIHR EET that they implemented this procedure already prior to the instruction, others responded that they strengthened procedures as a consequence.

The large majority of voting cards were returned by mail.<sup>21</sup> On the day before election day, the postal service should empty all post boxes and forward all postal votes to the respective DEBs by 17.00 on election day. The DEBs regularly collected postal votes from the post prior to election day. In the cases observed by the OSCE/ODIHR EET, this was done by auxiliaries, who were authorized by a DEB decision and performed certain tasks under the general supervision of the DEB chairperson. This included conducting a ‘preliminary sorting’ of postal votes to check for presence of a voter’s signature and any other reason for excluding a voting card from the count. Auxiliaries registered all voting cards received in two lists: one for voting cards which are to be included and one for those to be excluded from the count.

There has been a general increase in the number of postal votes since 2008, the first year when nationwide postal voting was permitted.<sup>22</sup> For the 4 December voting, 651,726 voters corresponding to 13.72 per cent of all participating voters, cast a postal ballot, although the MoI informed the OSCE/ODIHR EET that this form of voting is still regarded as ‘an exception’. While the legal procedures for counting postal votes are reasonable, should a high proportion of postal votes be cast, the postal vote count may become a protracted process.

In Vienna and 14 other statutory cities, voters could also use a voting card as a *de facto* method of advance voting by applying for and completing a voting card at the same time at a municipal office prior to election day. Such offices were equipped with one or more booths for secret voting. The MoI informed the OSCE/ODIHR EET that this was common practice and explained that since the voter returned the completed ballot to an employee of the city municipality rather than casting the ballot in a ballot box this did not constitute advance voting.<sup>23</sup> Such practices appear restricted to cities with statutory rights. However, during a visit to a rural municipality on 2 December, the OSCE/ODIHR EET noted that municipal officials stored a few completed voting cards obtained from voters who had applied for and completed them at the municipality office on the same day; a procedure not envisaged by law. The municipality explained that, unlike in some other regions, the local post boxes would not

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<sup>19</sup> Unless the voting card is unused and the voter decides to vote in person at a polling station. In such case, the voter is issued a blue ballot envelope in return for the beige one from the voter card and votes in the usual fashion.

<sup>20</sup> On 8 November, the MoI issued a circular to municipalities regarding application for voting cards.

<sup>21</sup> In addition, a voter or a person chosen by the voter could deposit a completed voting card at a polling station or with a DEB until the end of voting on election day. Voters residing abroad had also the opportunity to deposit their voting card at an embassy or consular representation for return to Austria by diplomatic pouch.

<sup>22</sup> In the 2013 parliamentary elections, some 574,000 voters cast a postal vote. In the 24 April first round presidential election – some 543,000, and in the 22 May second round – some 760,000.

<sup>23</sup> Unlike in the nationwide elections, advance voting is provided for in certain local elections.

be emptied during the weekend and thus the votes may not have reached the DEB on time had they been posted in a local post box.<sup>24</sup>

*To ensure the equality of voting conditions within Austria, the arrangements for depositing, collecting, and delivering voting cards could be standardised. It may be considered to allow all voters to deposit completed voting cards at their municipal authority.*

#### **D. ELECTION DAY PROCEDURES**

In line with the OSCE/ODIHR's standard methodology, the OSCE/ODIHR EET did not undertake a comprehensive and systematic observation of election day procedures.<sup>25</sup> The OSCE/ODIHR EET, however, did pay close attention to the procedures for issuing, receiving, and counting voting cards in the days around election day, and visited election boards at state, district, and municipal level. Within this scope of activity, the OSCE/ODIHR EET found the election boards to be well prepared and assessed that they organised the electoral process, including the counting of postal votes, efficiently, transparently, and collegially.

##### ***Voting***

Voting took place in an invariably calm and orderly manner in the polling stations visited. By law, each municipal authority may determine the opening hours of polling stations within their territory; a feature of Austria's decentralized administration. The OSCE/ODIHR EET noted that some polling stations had short voting hours, including cases where they were open for voting for as little as two hours. The law requires that polling stations are set up to process "no more than seventy voters [...] per hour",<sup>26</sup> although the OSCE/ODIHR EET noted that several PSBs were processing approximately 200 voters per hour and, in some instances, long queues of voters even where PSBs were fully-staffed.

*The authorities could take measures to enhance the organization of voting, for example, by enforcing the implied limit on the number of registered voters per polling station, more effectively correlating voting hours to the number of registered voters, and increasing the number of polling station board members.*

A number of polling stations were equipped with special voting booths for facilitating voting of persons with disabilities, in line with legal requirements. Furthermore, at least one barrier-free polling station should be arranged in every municipality (in Vienna, every district), where technically feasible. These measures were generally implemented in the areas visited by the OSCE/ODIHR EET on election day. These measures, when consistently implemented, are effective means to enhance meaningful participation of persons with disabilities in elections.<sup>27</sup>

The OSCE/ODIHR EET followed the process of voting in a hospital, a prison and a care home and found that the special election boards complied with the rules and voters were able to vote in secret.

By law, a voter using a voting card may deposit it with any PSB on election day. The OSCE/ODIHR EET noticed some voting cards were placed in a secure place such as a separate ballot box while others

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<sup>24</sup> At one DEB visited by the OSCE/ODIHR EET, a batch of 30 postal votes with a postmark of 2 December – the last Friday before the election – were received only on 5 December and therefore excluded from counting.

<sup>25</sup> The OSCE/ODIHR EET observed election day procedures at 16 polling stations in both rural and urban areas in provinces of Styria and Tyrol.

<sup>26</sup> Article 53 of Parliamentary Election Law in conjunction with Article 10.1 of Presidential Election Law.

<sup>27</sup> 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".

were placed in an unsealed bag. Voters that had not filled in their voting card could hand over the voter card to the PSB and receive a blue ballot envelope (in exchange for the beige one used for postal votes), and vote as a 'regular voter'. The rationale for allowing a voter to cast their ballot as a regular voter rather than with the voting card is not clear and caused several PSBs problems with ballot reconciliation.

*Consideration could be given to establishing procedures aimed at ensuring the uniform handling and storage of voting cards received by polling station boards.*

### ***Counting and Tabulation***

Ballots were counted at the polling stations immediately after the end of voting. This meant that some results were known while polling stations elsewhere remained open for voting.<sup>28</sup> The OSCE/ODIHR EET noted that PSB chairs instructed all persons present not to divulge the results of polling to any unauthorised person. The same approach was taken by higher-level election boards (MEBs and DEBs) in keeping with the Court ruling and MoI instructions.

At the polling stations observed, the counting of votes was conducted efficiently and transparently. There was a considerable number of invalid ballots (3.2 per cent), which, based on a limited number of observations, was mostly due to blank ballots or marks for both candidates.

The protocols of results were completed by PSBs without significant difficulties and were transferred directly to the MEB together with the election material. The MEBs verified the arithmetical correctness of the results and verified that protocols had been completed properly. The protocol completion, transfer and intake processes observed by the OSCE/ODIHR EET were conducted efficiently and quickly.

### ***Counting of Postal Votes***

The OSCE/ODIHR EET observed the counting of postal votes in five DEBs and assessed that it was conducted collegially, transparently, and in strict accordance with the law. In all districts, the counting appeared to be efficient. In one large district, the process was more time consuming, in part due to a literal interpretation of applicable procedures.<sup>29</sup> In general, the DEBs visited by the OSCE/ODIHR EET formed separate groups and collectively counted some 2,000 votes per hour. All DEBs in the country except one completed the postal vote count on 5 December.

A relatively high proportion of voting cards, 34,187 or 5.25 per cent of all voting cards submitted, were deemed by DEBs as invalid and not counted. The most common reason for this was the absence of a voter signature confirming personal and confidential voting.

*With the aim of reducing the number of invalid voting cards, the authorities should consider re-designing the voting card in a manner that draws attention to the need to sign the affidavit and instituting enhanced voter information on the process.*

The Court ruling stipulated that pre-sorting of postal votes by auxiliaries was permitted as long as the DEB members were granted opportunities to verify the sorted voting cards prior to the start of the

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<sup>28</sup> The first polling station closed at 10.00 and the last at 17.00.

<sup>29</sup> One DEB chairperson decided that the strict following of Article 14.a.1 of the Presidential Election Law requires that the chair should verify the integrity of the voting cards and remove the inner envelope from over 10,000 voting cards. This process took approximately six hours. The mentioned article was amended on 7 December, with the aim of clarifying that a DEB chairperson is entitled to use auxiliaries to carry out certain procedures.

count. In two DEBs observed by the OSCE/ODIHR EET, the DEB members were granted such opportunity, although the scrutiny lasted no longer than 10 minutes. Thus, the determination of which voting cards to include and which to exclude from the count was *de facto* made by auxiliaries under the supervision of the DEB chairperson rather than the full DEB.

The determination of the validity of postal votes strictly followed legal procedures and decisions were taken in a reasonable, consistent, and collegial manner often after consulting the MoI's guidelines on this issue. Of the total number of postal votes included in the count, some 11,437 (or 1.85 per cent) were invalidated. Together with the number of void voting cards, the overall number of returned postal ballots that were found to be invalid was 45,624 or 7 per cent, which is a high number.

## V. 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.<sup>30</sup>

1. The authorities should consider ways to ensure sufficient numbers of election board members are recruited. This may involve enhancing incentives and/or broadening membership beyond party nominated persons. Efforts should be made to promote gender-balanced representation in election boards, with gender disaggregated data on the composition of election boards made publicly available.
2. As previously recommended, consideration could be given to restricting elected officials from directly serving on election boards, in order to safeguard the impartiality of the election administration.
3. With the aim of reducing the number of invalid voting cards, the authorities should consider re-designing the voting card in a manner that draws attention to the need to sign the affidavit and instituting enhanced voter information on the process.
4. To ensure the equality of voting conditions within Austria, the arrangements for depositing, collecting, and delivering voting cards could be standardised. It may be considered to allow all voters to deposit completed voting cards at their municipal authority.
5. The authorities could take measures to enhance the organization of voting, for example, by enforcing the implied limit on the number of registered voters per polling station, more effectively correlating voting hours to the number of registered voters, and increasing the number of polling station board members.
6. Consideration could be given to establishing procedures aimed at ensuring the uniform handling and storage of voting cards received by polling station boards.

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<sup>30</sup> In paragraph 25 of the 1999 OSCE Istanbul Document, OSCE participating States committed themselves “to follow up promptly the ODIHR’s election assessment and recommendations”.

## ANNEX: FINAL RESULTS

On 15 December, the Federal Election Board announced the final results of the repeat second round of the presidential election as follows:

	<b>Numbers</b>	<b>Percentage</b>
Total number of registered voters	6,399,607	
Total number of votes cast	4,749,339	
Turnout		74.2
Total number of invalid votes	151,786	3.2
Total number of voting cards used	617,539	13.0

<b>Candidate</b>	<b>Valid votes received</b>	<b>Percentage</b>
Norbert Hofer	2,124,661	46.2
Alexander Van der Bellen	2,472,892	53.8

MoI released the following data pertaining to postal voting:

### Voting cards/postal votes

	<b>Numbers</b>	<b>Percentage</b>
Total number of returned voting cards	651,726	
Voter cards not to be included in the count	34,187	5.3
Total number of used voting cards	617,539	
Total number of invalid postal votes	11,437	1.9
Total number of valid voting cards	606,102	93.0

Reasons for excluding the voting cards from the count:

<b>Reason</b>	<b>Numbers</b>	<b>Percentage</b>
Oath (affidavit) not signed by the voter	31,426	91.9
No voter envelope inside the voter card	1,589	4.7
Breach of the integrity of the voting card	834	2.4
Inner envelope contained writings	195	0.6
Voter card submitted after deadline	61	0.2
Other reasons*	82	0.2
Total	34,187	100.0

\* Other reasons included voter cards containing two or more beige voter envelopes, or containing other items.

Source: [Data of Federal Electoral Board](#) and 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 programs annually, seeking to develop democratic structures.

The OSCE/ODIHR also assists participating States' in fulfilling their obligations to promote and protect **human rights** and fundamental freedoms consistent with OSCE human dimension commitments. This is achieved by working with a variety of partners to foster collaboration, build capacity and provide expertise in thematic areas including human rights in the fight against terrorism, enhancing the human rights protection of trafficked persons, human rights education and training, human rights monitoring and reporting, and women's human rights and security.

Within the field of **tolerance** and **non-discrimination**, the OSCE/ODIHR provides support to the participating States in strengthening their response to hate crimes and incidents of racism, xenophobia, anti-Semitism and other forms of intolerance. The OSCE/ODIHR's activities related to tolerance and non-discrimination are focused on the following areas: legislation; law enforcement training; monitoring, reporting on, and following up on responses to hate-motivated crimes and incidents; as well as educational activities to promote tolerance, respect, and mutual understanding.

The OSCE/ODIHR provides advice to participating States on their policies on **Roma and Sinti**. It promotes capacity-building and networking among Roma and Sinti communities, and encourages the participation of Roma and Sinti representatives in policy-making bodies.

All 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](http://www.osce.org/odihr)).