



**OSCE Parliamentary Assembly
Post-Election Statement – U.S. General Elections
6 November 2008**

Conclusions

The U.S. elections on 4 November 2008 were a convincing demonstration of the country's commitment to democracy. In a highly competitive environment, the vote clearly reflected the will of the people, and only minor problems were observed by international parliamentarians monitoring the elections in nine key states. The voters clearly were given a genuine opportunity to make an informed choice.

Following an intensive registration process in which over 150 million Americans were registered to vote, these elections saw a record-high voter turnout, in some states up to 90 percent. The early voting option offered to the voters in over 30 states contributed greatly to the high turnout. It is estimated that over 30 percent of the voters took advantage of this opportunity for early voting.

While prior to the elections concern was expressed over the ability to process the expected record turnout, the large amount of early voters likely played an important role in making election day successful and absent of major problems. Still, it is clear that early voting did not remedy all capacity problems, as witnessed by voters having to wait to vote for often many hours in numerous places around the country.

Nevertheless, the decentralized and highly diverse electoral system lacks uniform standards, creating vulnerabilities in the system, particularly with regards to the integrity and complexity of voter registration, voter identification, and electronic voting machines.

The increased use of paper ballots and optical scanners was seen as a positive step by the parliamentary observers. However, ballot design in many states was seen as overly complicated and proved at times to slow down the voting process.

The frequent presence of observers/poll watchers from political parties and civil rights organizations, including thousands of attorneys and volunteers to provide legal assistance to voters, was positive although may be a reflection of the complexity of the system.

Access of international election observers is regulated by state law and in some cases parliamentary observers were not able to observe voting inside the polling stations.

Mission

The OSCE Parliamentary Assembly assessed the 2008 U.S. presidential elections as well as the election of the members of the House of Representatives and the Senate of the U.S. Congress for their conformity with the OSCE commitments as stated in the 1990 Copenhagen Document, to which the United States has subscribed.

The OSCE PA started its election observation with a two-day seminar in the U.S. Congress in September 2008 for 43 Members of Parliament. In October, it deployed a Pre-Assessment Mission in five states. The Short Term Observation Mission, including a total of 94 observers of whom 76 are Members of Parliament from 28 countries, continued on 27 October in Washington, D.C. and was subsequently deployed to nine states: Florida, North Carolina, Virginia, Maryland, New Hampshire, Ohio, Missouri, Colorado and New Mexico, plus the District of Columbia.

Observers received briefing material prior to arriving in the country for further briefings in Washington D.C. and their states of deployment five days prior to the elections.

Legal Framework

The legal framework for elections is highly decentralized in the United States. It is based on state laws and, frequently, on regulations decided at county level. As a consequence, there is no uniformity on fundamental issues such as eligibility to vote, voter registration, voting and counting procedures.

The Help America Vote Act (HAVA), which – after the 2000 elections – served to establish some minimum standards for the states – has served the electoral process well. However, in several states, the process of implementing the HAVA has not yet been completed. Some argue for a second phase of HAVA.

The possibilities to verify the correctness of the voter register and to crosscheck it with neighbouring states, in order to avoid double registrations are limited and not widely used. Identification requirements, in particular the wide-spread possibility to vote without any picture I.D., also limit possibilities to identify instances of double voting. Double voting is a third-degree felony in most states and also violates federal election-fraud laws.

Election Campaign

This presidential election process witnessed record campaign contributions totalling USD 2.5 billion. The Democratic candidate Barack Obama raised USD 640 million and decided to forgo public contributions, while the Republican candidate John McCain raised USD 360 million and accepted public money, obliging him to limit spending since his nomination to USD 84 million he received in public funds.

This fact has led to a debate even before election day about whether the public funding system will survive another Presidential election. At a minimum, many say, it must be reformed.

The campaign was highly competitive and took place in a free and pluralistic media environment. The four television debates between the candidates – this year three were held between the Presidential candidates and one with the Vice-Presidential candidates – were the highlight of extensive media coverage with an estimated total of around 70 million viewers.

The two leading presidential candidates were the main focus of journalistic reporting and contestants extensively used paid advertising, leading to a very limited visibility of other political parties and candidates. An estimated 6,000 political ads ran on television stations across the country.

Early Voting

The increased possibility for voters to vote early was a highly positive step for the U.S. electoral process. Early voting was conducted in many states up to several weeks in advance of election day. In addition to early in-person voting, voting by-mail is gaining popularity, encouraged by the fact that some 33 states do not require an excuse for such mail/absentee voting. Oregon votes entirely by mail. In Washington State, 37 counties (of 39) also vote by mail.

Election Day

In addition to the voting itself, observers witnessed the opening of polling stations as well as the closing process, including the vote count. No major problems were reported, and observers were generally impressed by the efficiency of the vote tabulation. Overall, the atmosphere at the polling stations was calm and friendly.

Voting on election day opened in most places with long lines and great anticipation from the voters. Many waited hours to cast their vote but did not seem to mind and patiently waited their turn. Local election officials and poll workers appeared well-trained but had their hands full with the high turnout. In some places, observers raised concerns over the capacity of the polling stations and the limited number of poll workers available.

Technical difficulties with the machines were generally solved quickly and did not seem to negatively influence the integrity of the vote. Observers also noted what they thought to be a lack of voter secrecy. Voting booths and electronic voting machines were often placed too closely to each other enabling clear insight as to how a voter marked the ballot. The fact that ballots in some places were placed into the optical scanner face up and in full view of the poll workers and other voters also was seen as a potential compromise of voter secrecy.

Voting procedure/equipment ballot design

Various techniques and voting machines are used in the United States. In 2004, the OSCE recommended the universal use of a paper trail system, but to date 15 states do not have paper records in their voting systems. HAVA stipulates that all voting systems produce a permanent paper record for a manual audit as the official record in the case of recount. However, it does not specify if such a paper record should be made available to voters. A voter-verifiable paper audit

trail was provided in 18 states for voters using Direct Recording Equipment (DRE) machines. Observers were particularly impressed by the optical scanners used in many states and favour a continued use of such equipment. There seems to be a growing consensus in favour of paper ballots with optical scan counting, yet the implementation of this in some places is limited by financial concerns.

With election reforms primarily focusing on technological issues, less attention has been devoted to ballot design. In many instances the observers found the ballot design overly complicated, which slowed down the voting process and could have led to errors.

Eligibility/Voter registration

The 2008 elections have seen a record number of newly registered voters, in excess of some 10 million people. A total of 153 million Americans are registered to vote, which is an estimated 75 per cent of the eligible voter population. This high number is a result of the active involvement of civil society groups and candidates' campaigns and has become a significant and contentious element in the election campaign.

One community organizing group, Association of Community Organizers for Reform Now (ACORN), conducted massive voter registration involving some allegedly fraudulent registrations. In response to complaints, the Federal Bureau of Investigation has launched an investigation.

Observers heard allegations of undue purges of eligible voters from the voter lists in six states, Colorado, Indiana, Ohio, Michigan, Nevada and North Carolina. The purging appears to be the result of mistakes in the handling of the registrations as the states tried to comply with HAVA, rather than any intentional effort. The ability to cast provisional ballots, which are subject to post-election registration verification, provides an extra option for voters who may have been erroneously removed.

Some concerns were raised about reported practices intended to prevent people from voting. Examples include systematic challenges of voters in fiercely contested areas, the improper purging of names from voter registration rolls, local misinformation, campaigns disseminating incorrect information on timing and places of voting, and intentionally providing too few voting machines in lower-income communities.

Voting rights of felons and ex-felons are determined by state law. Such laws vary broadly. Individuals convicted of felonies lose their right to vote in all U.S. states except for four. In most states, felons can regain the right to vote after serving their prison time. In ten states, felons lose the right to vote for life.

Registration of Parties/Candidates

Thirty political parties registered for the elections and candidates can also run as Independents, without any party affiliation. However, the political landscape has long been dominated by the Republican Party and the Democratic Party. Since 1856, every president elected by U.S. voters

has belonged to one of these two parties, and in practice these two parties play a lead role in the organization of the elections.

Although so-called ‘third parties’ rarely win national elections, they have had some success on the local level in recent years. The current ‘third parties’ that have national voter registrations of more than 100,000 people include: the Constitution Party, the Green Party and the Libertarian Party.

Ballot access laws pose a challenge to ‘third party’ candidacies. While the Democrat and Republican parties are virtually guaranteed ballot access in all 50 states in every election, ‘third parties’ often need to meet difficult criteria in order to get on the ballot, such as registration fees or, in many states, petition requirements in which a large number of voters must sign a petition for a third party or independent candidate to gain ballot access.

Mission information

The Parliamentary Assembly of the OSCE is the parliamentary dimension of the Organization for Security and Co-operation in Europe, whose 56 participating States span the geographical area from Vancouver to Vladivostok. The OSCE PA election observation mission was led by President Joao Soares (Portugal), and Deputy Head of Mission, Vice-President Pia Christmas-Moeller (Denmark).

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