



OSCE ODIHR Supplementary Human Dimension Meeting
Democratic Elections and Election Observation
Session III
Vienna 12-13th July 2012

Introductory remarks
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Follow-up to OSCE/ODIHR Mission Report Recommendations and
Engagement with Participating States: Experience of Finland

In these introductory remarks I will share experiences of Finland and in particular, an experience of a supreme campaign finances oversight authority in a Participating State with old and well established democracy on the implementation of the OSCE/ODIHR Needs Assessment Mission report and engagement with the Participating State. The OSCE had an election assessment mission in Finland's 2011 parliamentary elections and a presentation by ODIHR experts of the mission final report in the light of implementation took place in Spring 2012.

My perspective to the topic is that of the Auditor-General of Finland and the President of National Audit Office of Finland (NAOF). The National Audit Office of Finland, led by the Auditor-General of Finland who is elected by the plenary of the Parliament, is an independent constitutional supervisory authority, which is part of the legislative branch (independent audit, evaluation and oversight arm of the Parliament) but has some limited judicial and investigative powers as well. NAOF is by Constitution the Supreme Audit Institution of Finland and, in addition, the supreme legality oversight authority of election campaign finances and political party financing (Ministry of Justice being the supreme election authority in other substantive areas of election management and as such, subject to audit and oversight by the NAOF).

Constitutional mission of the NAOF is to assure and promote trust to the realisation of the principles of the rule of law and democracy in government finances and financial management and in public functions (in campaign finances and political party finances). The Auditor-General reports to the plenary of the Parliament and this reporting line was also used in the case of OSCE Mission Report in order to bring the recommendations to the forum of political and legislative debate in Finland.

International evaluations and recommendations in election / campaign finances legislation in Finland. Assessments by international organisations have made a significant contribution to the development of campaign finances legislation in Finland. They have been influential in particular when there has been a confluence of domestic needs and issues raised in international assessments. Particularly Council of Europe / GRECO work has been influential in the 2009 and 2010 major reform of campaign finances and political finances legislation albeit GRECO evaluation got attention after a domestic scandal on election campaign finances was brought to public attention by the media. In this 2009/10 reform also the NAOF mandate was extended to election finances.

General conclusion of our experiences is that international assessments provide added value to an established democracy and this also applies to OSCE/ODIHR Mission Report. This is an important point since fairly regularly OSCE has been criticised to focus only on the “younger” democracies. The implementation of recommendations also measures the real level of commitment to the principles referred to in the OSCE Commitments and OSCE ODIHRs capacity to provide assistance to Participating States.

The OSCE Mission Report was referred to and shortly discussed in NAOF Report to Parliament on campaign finances in 2011 Parliamentary Elections and Annual Oversight Report on Political Finances concerning year 2011, two reports the Auditor-General is required by law to represent to the plenary of the Parliament. The international assessments are particularly helpful to highlight potential weak areas and provide perspectives for law-drafting and development of systems.

OSCE / ODIHR has been right to include the campaign and political finances in the assessment of the fairness of elections. The Constitutional Law Committee of the Parliament of Finland, which according to the Constitution of Finland is the primary interpreter of the Constitution of Finland has in 2009 stated that campaign finances and political finances (fair rules and level playing field for private funding and equality and transparency in access to public financing significant aspect of fair elections): fair elections are a cornerstone of democracy and the fairness of elections entails the voters right to assess linkages created by private funding of election campaigns and political activities. Transparency and assurance of high level of integrity in campaign finances and political party finances is needed in order to prevent corruption and ensure trust to public institutions and offices. (Constitutional Law Committee Report 2/2009 on the new Campaign Finance Act)

Corruption and lack of transparency in campaign and political finances is a major international and European issue. June 2012 Transparency International in the summary report of the studies of national integrity systems of various European countries and some academic studies have presented earlier evidence on the linkages between lack of integrity in campaign and political finances and the macro-economic performance of the country. Lack of integrity contributes to financial and economic crises. This is also the picture which emerges from the observations of the NAOF in a larger comparative perspective.

Follow-up of the OSCE Mission Report in Finland. The final OSCE Mission Report was presented and discussed by the OSCE/ODIHR experts in an open hearing with various stakeholders organized

by Ministry of Justice. In addition there were dialogue meetings with political parties and key authorities. The discussion of the various perspectives related to the mission report provided for external experts additional stimulus for reflection on the needs for reform and improvement.

In the engagement with the Participating State important and useful is the comply or explain – approach or comply or reflect – approach concerning established common good practise standards whereas there shall be ensued compliance with the legal commitments taken in the context of OSCE and other international fora. Follow-up of the mission report brings a Member State to reflect and explain its practices and if fail to explain to itself the current practises then launch necessary reforms.

The OSCE Mission Report was referred to and discussed in the NAOF Report to Parliament, which brings it as an integrated part of wider evaluation materials on the effectiveness and the functionality of the campaign finances legislation. This enabled putting the mission report to a particular national context in which it does not remain an isolated international piece of work. Mission Report contains several points which in some way or another will be taken into consideration in the next drafts of legislation.

Concerning the aspect of being seen in the right context it should be observed that some parties and institutions were represented in dialogue meetings by their international departments which were not necessarily the persons directly responsible for election and campaign finance issues. To have good co-operation with some key authorities in a Participating State may additionally ensure that the follow-up dialogue reaches the most relevant actors. This leads to the significance of the field missions and ensuring sufficiently detailed and high quality field work not only during the observation mission but also in the follow-up processes.

The open hearing organised in Finland enabled particularly smaller and more marginal groups also to engage in debate which was seen as positive. The mission report supported some of the ideas already raised by NAOF: external analyses can enhance the reform and reinforce arguments for a further strengthening of integrity systems will be used in future work in the assessment of the election legislation and campaign finances and political party finances legislation.

The report and the dialogue with key stakeholders provided also some additional background for interpretation of good ethics on election and campaign finance matters. Some of the recommendations may not be impleted very soon or, there are some in which there may be another overall assessment what would be a good practise on national level. However, even on these points the core argument of the recommendations will be reflected upon.

The value of OSCE (and other external) recommendations. Apart from the general commitments to the democracy there is no specific international binding instruments concerning campaign finances and political party financing. The accumulation and transfer of transfer of international best practice takes places trough evaluation and mission reports. The handbook on election observation is not only guidance for observers but a source of documentation of the international best practise. Maybe there is room for guidance directly addressed to national legislators concerning election best practises.

Political financing and campaign finances have some particular sensitivities. Therefore it is good value to have an external expert perspective to highlight issues which may be too self-evident in a domestic context. A dialogue with the Participating States signals also why paying attention to the various aspects and safeguards of integrity is important and which these safeguards according to international comparative expertise are. Political sensitivities may create situations that it may not

be easy to argue for the most effective safeguards for integrity. Campaign finances is also a highly specialised area in which practitioners work in a fairly limited circle of experts and thereby there is specific additional value of comparative development and assessment.

Campaign and political financing is a significant dimension of the fair elections and right to vote and participate to which there are clear OSCE commitments (see commitment to free election and right to choose in Copenhagen Document (1990), chapter I 5.1. and 6.) Mission reports and their implementation help to materialize – that is to give substantive content - it further in the spirit of sharing of experiences (Copenhagen Document III, 26).

Some remarks on the eventual future directions. There is no specific international treaty foreseeable in the near future on campaign finances but a gradual evolution of good practice standards. While continuing the mission reporting and developing further implementation dialogue with Participating States a further step in the collection of international best practice and provision of guidance materials on the content of election and campaign finances legislation is welcomed: The OSCE can function as intermediary and developer of best practice materials (non-binding common standards, collected to interactive handbooks). Handbook on observing campaign finances, to be published soon, will fill an important gap.

Core aspect in effective implementation is the dialogue with the Participating State concerned and its various actors. Election observation should not end to the presentation of the final mission report. Follow-up missions on the implementation of the recommendations in dialogue with the Participating State concerned is vital for the effectiveness of the aims of the election observation. There is still room to further systematise the follow-up of the implementation of the mission report recommendations to give best content to the idea of providing assistance to Participating States.

Valuable in the OSCE work from our experience was the fairly detailed knowledge about the laws, systems and practices in the mission team which helped to avoid some generalities with limited added value.

Also a very valuable point for the implementation in the OSCE work were the references to other than OSCE materials in human rights. Maybe a further cross-referencing and co-operation with Council of Europe/GRECO and other anti-corruption bodies would give further weight in specific area of fairness and integrity of elections in campaign finances following the model of co-operation with the Venice Commission. The campaign finances is a significant area of work against corruption.

On the bases of the Finnish experience the role of the media as a watchdog and as a driver for change has to be emphasised. The international evaluation missions barely get headlines in normal circumstances. A wider dialogue with the representatives of media might be worth considering. Also more multilateral networking of key stakeholders and authorities may add a useful element to the assistance provided by OSCE ODIHR in the implementation of the recommendations.