



Office for Democratic Institutions and Human Rights

REPUBLIC OF LITHUANIA

PARLIAMENTARY ELECTIONS

9 October 2016

OSCE/ODIHR Election Assessment Mission Final Report



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OSCE/ODIHR Election Assessment Mission Report¹

I. EXECUTIVE SUMMARY

Following an invitation from the Government of the Republic of Lithuania to observe the 9 October parliamentary (*Seimas*) elections and based on the recommendation of a Needs Assessment Mission, the OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR) deployed an Election Assessment Mission (EAM) from 26 September to 14 October 2016.

Elections to the 141-member parliament were competitive and pluralistic, offering voters a broad choice of political alternatives. Contestants enjoyed equitable campaign conditions and competed in a process characterized by respect for fundamental freedoms. In light of issues identified in past elections, and against the background of corruption scandals earlier in the year, elections took place under an overall strengthened legal framework with enhanced oversight and enforcement.

The legal framework provides a sound basis for the conduct of democratic elections. A number of recent changes addressed several previous OSCE/ODIHR recommendations, including regarding campaign finance regulations, the timeframe for the appointment of the Central Election Commission (CEC), and the deadlines for considering complaints. In line with good electoral practice, constituency boundaries were redrawn following inclusive parliamentary discussions. The codification process aimed at consolidating electoral legislation is ongoing. Some OSCE/ODIHR recommendations, such as those related to women's participation, citizen observation, and defamation remain to be addressed.

Elections were administered by three levels of election commissions in a professional, efficient, and transparent manner. OSCE/ODIHR EAM interlocutors expressed overall confidence in the work of the election administration, although the impartiality of some members was, at times, questioned. The CEC's efforts to remedy shortcomings in the law, at times, did not always contribute to legal certainty. Voters were provided with a range of alternative voting options, which generally enjoyed stakeholders' trust.

The right to vote is granted to citizens over 18 years, except those declared incapable. In line with international jurisprudence, the Civil Code was amended to specify that incapability be established by court on a case-by-case basis. OSCE/ODIHR EAM interlocutors expressed confidence in the accuracy and inclusiveness of voter lists. Electronic checks of voter identification provided an effective safeguard mechanism against multiple voting.

Despite the 2012 OSCE/ODIHR recommendation, the Constitution continues to provide lifetime ban on candidacy of individuals removed from office through impeachment proceedings. This is not in line with the respective European Court of Human Rights (ECtHR) ruling, OSCE commitments, and international standards. Also, candidacy restriction based on possession of citizenship of another state is at odds with the jurisprudence of the ECtHR.

Despite some restrictive candidacy requirements, an inclusive candidate registration process resulted in a broad selection of contestants, including candidates standing on behalf of political parties,

¹ The English version of this report is the only official document. An unofficial translation is available in Lithuanian.

electoral coalitions, and as independents. Although it did not appear to have impeded registration, the required number of candidate support signatures exceeds the limit recommended as good electoral practice.

The legal framework provides for the electoral participation of national minorities on an equal basis and allows for the establishment of national minority parties. However, some aspects, including the thresholds for entering the parliament and party membership requirements, do not facilitate minority representation. The availability of a greater variety of election-related materials in minority languages would enhance effective participation.

The campaign lasted several months and was mostly low-key, becoming visible only closer to election day. Contestants were able to campaign freely. Issues related to low wages, social issues, emigration, and political corruption featured prominently. Vote-buying incidents from previous elections diminished confidence among several OSCE/ODIHR EAM interlocutors and remained a topic in the campaign. Positively, the platforms of many political parties included sections for the enhancement of opportunities for people with disabilities.

Campaign finance regulation is comprehensive, with the CEC serving as the primary oversight body. Recent amendments addressed some previous OSCE/ODIHR and Council of Europe's GRECO recommendations, notably related to limits for political party membership fees, annual oversight of parties' public funds, and the strengthening of sanctions for violations of the law. Campaign finance transparency is ensured by frequent and detailed disclosure. However, some concerns were raised regarding possible circumvention of rules by third parties and a lack of proportionate, effective, and dissuasive sanctions.

The media environment is pluralistic and freedom of expression is generally respected, although defamation remains criminalized. Voters were exposed to a wide range of views and contestants were granted equal access to the public broadcaster to present their platforms. However, a broad definition of political advertising in combination with strict regulations and the formalistic oversight by the CEC resulted in stifled campaign coverage and controversies between the CEC and the media over perceived interference in editorial independence.

The law and statutes of most political parties do not provide special measures aimed at enhancing the participation and representation of women. Women amounted to 31 per cent of candidates and 21 per cent of newly-elected members of parliament. Issues related to women were addressed only in a few of the parties' programmes, focusing mainly on family-related policies. Women were well represented in all levels of election administration.

The CEC accredited citizen observers in an inclusive manner, though the law lacks provisions in this regard. Most of the contestants, as well as one citizen group, deployed observers throughout the country, and their extensive presence in polling stations contributed to the transparency of the elections.

The complaints and appeals system generally provides for an effective remedy in election-related disputes. The CEC and courts handled complaints and appeals in an open manner. The law does not provide a mechanism for the parliament's final decision on election validity to be appealed to a judicial authority, at odds with OSCE commitments.

In line with the OSCE/ODIHR's methodology, the EAM did not observe election day proceedings in a systematic or comprehensive manner, but visited a limited number of polling stations. Opening, voting, and counting processes observed were orderly and the procedures were mostly followed.

Following run-off contests in the majority of single-mandate constituencies, final results were announced on 30 October.

II. INTRODUCTION AND ACKNOWLEDGEMENTS

Following an invitation from the Government of the Republic of Lithuania to observe the 9 October 2016 parliamentary (*Seimas*) elections and based on the recommendation of a Needs Assessment Mission conducted from 14 to 16 June 2016, the OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR) deployed an Election Assessment Mission (EAM) from 26 September to 14 October.² The OSCE/ODIHR EAM was led by Kimmo Kiljunen and consisted of six experts from six OSCE participating States. The EAM was based in Vilnius and visited Kaunas, Kėdainiai, Klaipėda, Šalčininkai, Trakai, and Visaginas.

The electoral process was assessed for 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 EAM did not observe election day proceedings in a systematic or comprehensive manner, but visited a limited number of polling stations. The OSCE/ODIHR EAM did not remain in the country to follow the second round of voting held on 23 October.

The OSCE/ODIHR EAM wishes to thank the Ministry of Foreign Affairs and the Central Election Commission (CEC) for their co-operation and assistance, as well as to express gratitude to representatives of other state and municipal institutions, election commissions, political parties, candidates, media, civil society, academia, the resident diplomatic community, and other interlocutors for sharing their views.

III. BACKGROUND

Lithuania is a parliamentary republic with legislative authority exercised by the unicameral parliament. Executive powers are vested predominantly in the government, with some specific authority given to the president, including in areas of foreign policy and national defence. The president is the head of state, elected directly for a five-year term. The 9 October parliamentary elections were called by the president on 7 April.

The last parliamentary elections were held in October 2012 and resulted in a coalition government comprising the Social-Democratic Party (40 seats in the outgoing parliament), the Labour Party (28 seats), and the Order and Justice Party (9 seats). Initially a coalition member, the Electoral Action of Poles in Lithuania – Christian Families Alliance (8 seats) left the government in August 2014 following disagreements over ministerial nominations. Homeland Union – Christian Democrats (30 seats) and the Liberals Movement (12 seats) were the largest parliamentary opposition parties. The remaining 13 seats were held by independent members of parliament (MPs). While the president and the speaker of the outgoing parliament are women, only some 20 per cent of MPs and ministers were women.

In the run-up to the elections, the political system and public perceptions thereof were shaken by corruption scandals involving some of the key political forces. Investigations were launched against the leader of the Liberals Movement and the vice-chair of the Labour Party on accusations of having

² See all [previous OSCE/ODIHR reports on Lithuania](#).

accepted bribes from an influential business conglomerate, pointing to the potential undue role played by business interests in politics. Accusations of corrupt practices in various ministries and institutions affiliated with the governing parties continued to be heard during the campaign. The Labour Party expressed concerns to the OSCE/ODIHR EAM over the perceived intensification of investigative activities against it shortly before elections. The President took a strong public stance in connection with the corruption cases, raising questions as to the government's efficiency and integrity.

IV. LEGAL FRAMEWORK

The legal framework for the elections primarily comprises the 1992 Constitution, the 1992 Law on Parliamentary Elections (PEL), and the 2002 Law on the Central Election Commission. Other legislation as well as a range of CEC regulations and judicial decisions are applicable.³ Legislation is readily accessible to the public. Lithuania is a party to major international and regional instruments related to democratic elections.⁴

Since the last parliamentary elections, a number of legal amendments were passed with broad political support that addressed several previous OSCE/ODIHR recommendations, including regarding the delimitation of electoral constituencies, campaign finance, the timelines for considering complaints, and appointment of the CEC. Other recommendations remain to be addressed, including those pertaining to women's participation, citizen observation, candidacy restrictions, and defamation.

The legal framework generally provides a sound basis for the conduct of democratic elections. However, some OSCE/ODIHR EAM interlocutors raised concerns over a lack of clarity of campaign and campaign finance rules, deadlines for candidate registration, and handling of campaign and media-related complaints. Certain regulatory gaps were addressed by the CEC, but these could not always be remedied in full without exceeding the scope of the law.

In 2013, a parliamentary working group was set up to codify electoral legislation. The OSCE/ODIHR EAM was informed that the ongoing codification is of a technical nature and that the group does not have the mandate to change provisions substantively. According to members of the working group, the codification process will most likely be finalized by the next legislature.

The legal framework should be reviewed to address past and present OSCE/ODIHR recommendations and address existing gaps and ambiguities. Reform should be undertaken well in advance of the next elections and involve open consultation with all stakeholders.

³ This includes the 1990 Law on Political Parties, 1996 Law on Public Information, 1996 Law on Personal Data, 1997 Law on Reconciliation of Public and Private Interests in the Civil Service, 1998 Law on Equal Opportunities for Women and Men, 1999 Law on Administrative Proceedings, and the 2004 Law on Funding of Political Campaigns and Control of Funding.

⁴ This includes the 1965 International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), 1966 International Covenant on Civil and Political Rights (ICCPR), 1979 UN Convention on the Elimination of All Forms of Discrimination against Women, 2003 UN Convention against Corruption, and 2006 UN Convention on the Rights of Persons with Disabilities (CRPD). Lithuania is also a member of the Council of Europe's European Commission for Democracy through Law (Venice Commission) and Group of States against Corruption (GRECO).

V. ELECTORAL SYSTEM

Parliamentary elections are held under a parallel, mixed system, with 71 MPs elected from single-mandate constituencies under a majoritarian system and 70 MPs elected from a nationwide constituency under a proportional representation system with preferential voting. All MPs are elected for four-year terms.

To be elected from a majoritarian contests, a candidate must gain an absolute majority if the voter turnout is above 40 per cent. In case of a lower turnout, the candidate with the most votes must receive votes from at least 20 per cent of eligible voters. If no one wins in the first round, and there are at least two candidates in the election, a run-off round is held within two weeks between the two candidates who received the most votes. In the proportional contest, an election is valid if the turnout is at least 25 per cent. In order to qualify for the allocation of mandates, a party list must pass a five per cent threshold, while the threshold for coalitions is set at seven per cent.

The CEC has to establish constituency boundaries before each elections in order to reflect population changes. In 2015, the Constitutional Court ruled that constituency delimitation rules in the PEL did not sufficiently ensure the equality of the vote.⁵ Following the ruling, and in line with a previous OSCE/ODIHR recommendation, the PEL now stipulates that the deviation in the number of voters per constituency should not be greater than 10 per cent of the average number nationwide. In December 2015, the new boundaries were announced by the CEC, making the constituencies of roughly equal size.⁶ OSCE/ODIHR EAM interlocutors were generally satisfied with the delimitation process, which included comprehensive discussions in the parliament, and no concerns were expressed as to the redrawn boundaries.

VI. ELECTION ADMINISTRATION

The elections were administered by three levels of election commissions, including the CEC, 71 Constituency Election Commissions (ConECs), and 1,996 Precinct Election Commissions (PECs). Additional polling stations were established in Lithuania's diplomatic and consular offices in 52 countries and on ships-at-sea.

The CEC is a permanent body, combining both professional and party representation in its composition.⁷ Addressing an earlier OSCE/ODIHR recommendation, the law was amended in 2013 to specify that the CEC should be appointed after, rather than shortly before each parliamentary elections.⁸ Seven of the sixteen CEC members are women, including the two deputy chairpersons.

⁵ See the 20 October 2015 [Decision of the Constitutional Court](#), in which it is noted that “elections in European countries [should] observe the OSCE/ODIHR’s position that the voice of every citizen must have the same value, and the constituencies should be formed providing an approximate equality of each of elected representatives and the electorate”.

⁶ Major changes included two additional constituencies in Vilnius and the loss of one constituency in both Kaunas and Šiauliai.

⁷ The current CEC was appointed in June 2012 for a four-year term. The Minister of Justice and the Lithuanian Lawyers Association each nominated four members, while the seven parties represented in the outgoing parliament each nominated one member. The CEC chairperson is nominated by the speaker of the parliament and was serving his fifth term.

⁸ The next CEC will include one nominee from each parliamentary party or coalition and two nominees each from the president, Minister of Justice, and the Lithuanian Lawyers Association.

The CEC operated efficiently and professionally, meeting legal deadlines. CEC sessions were open to observers and the media and were streamed on the CEC website. CEC decisions were adopted in a collegial manner, following open discussions, and were published on its website. While OSCE/ODIHR EAM interlocutors expressed overall confidence in the CEC's work, impartiality of its members was, at times, questioned.⁹

The law grants the CEC extensive powers and responsibilities to ensure uniform implementation of the law when administering the elections. In an effort to remedy some legal omissions, the CEC adopted a number of regulations and recommendations.¹⁰ While efforts to clarify and add detail to the law are welcome, at times, these regulations and recommendations did not always contribute to legal certainty.¹¹

The CEC used new information technologies (IT) to facilitate a range of electoral processes, including voter registration, voter identification, collection of candidate support signatures, completion of result protocols, counting of preferential votes, and the tabulation of results. The IT systems were tested jointly by the CEC and an IT provider before the elections. However, the CEC did not invite other electoral stakeholders for these tests, or publish any relevant documentation, detracting from the system's transparency.¹²

To enhance the transparency and public confidence in the IT systems facilitating electoral processes, the authorities could publicly and comprehensively test the system before every elections and publish the relevant technical documentation.

The ConECs and PECs are appointed on a temporary basis for every elections. The ConECs comprise both professional and political party nominees, and PEC members predominantly represent political parties.¹³ While a number of OSCE/ODIHR EAM interlocutors voiced concerns that the work of lower-level commission members was not always governed by principles of independence and impartiality, in several instances misconduct was effectively addressed by timely interventions of higher-level commissions.¹⁴ According to the CEC, women comprised 81 per cent of PEC members and only 25 per cent of ConEC members.

The CEC provided lower-level commissions with extensive, predominantly online training, which focused mostly on different aspects of the CEC IT system, rather than on election day procedures. A

⁹ The OSCE/ODIHR EAM observed some CEC members occasionally voting along party lines. The Law on Reconciliation of Public and Private Interests in the Civil Service states that persons in central or local public service must discharge their official duties impartially.

¹⁰ The CEC adopts Regulations on matters explicitly stipulated in the law, while other issues deserving clarification are addressed through CEC Recommendations.

¹¹ For example, CEC Recommendation No sp-44 limited the abilities of third-parties to endorse or criticize the candidates and contained additional discretionary criteria for determining what amounts to political advertising, such as "unusually frequent" or "significantly bigger"; CEC Recommendation No sp-49 shortened the deadlines for ConECs to verify signatures, as compared to the PEL.

¹² Paragraph 21 of the Council of Europe Rec(2004)11, [Recommendation of the Committee of Ministers to Member States on Legal, Operational and Technical Standards for E-Voting](#) recommends that information on the functioning of IT be made publicly available.

¹³ ConECs comprised one nominee from each of the Minister of Justice, Lithuanian Lawyers Association, and local administration, as well as from all parties that won a proportional seat in the last parliamentary elections. PEC members were nominated by political parties that had a proportional seat in either the parliament or the corresponding municipal council.

¹⁴ For example, one PEC member was dismissed by the ConEC 1 for distributing official voter information materials, in which he had circled one party list and named two candidates, one of them being his spouse. Members of several ConECs were dismissed for sharing political advertisements in social media.

variety of voter education and information materials were disseminated in print and audio-visual format, including on election day procedures and candidates. Positively, audio-visual spots produced by the CEC included sign language. However, representatives of national minorities and of people with disabilities indicated to the OSCE/ODIHR EAM that exposure to voter education and to information on

parties and candidates was more limited among these groups.¹⁵ Organizations of people with disabilities found the quality of materials intended for persons with intellectual disabilities as unsatisfactory and pointed out that the availability of information in Braille was very limited.

The CEC should further intensify its efforts of providing accessible and comprehensive voter education and information to all groups of voters, particularly to persons with disabilities and national minorities.

Voters were provided with a wide range of alternative voting options, including early, postal, homebound, and out-of-country voting. Alternative voting mechanisms generally enjoyed the trust of stakeholders. Early voting procedures that the OSCE/ODIHR EAM observed in several municipalities were in line with legal requirements.

The CEC recommended to the ConECs that one polling station in each constituency be accessible to people with reduced mobility. According to organizations representing people with disabilities, only 51 out of 71 constituencies had at least 1 such polling station.¹⁶ They further expressed concerns that homebound voting appeared to target primarily voters with disabilities, potentially with a view to reducing the need for accommodations for such voters in regular polling stations.¹⁷

Election authorities should continue their efforts to facilitate voting for persons with disabilities in close consultation with their representative organizations, and all municipal authorities should implement the existing criteria for making polling stations accessible.

VII. VOTER REGISTRATION

Citizens who are at least 18 years of age by election day have the right to vote, except those declared incapable by a court decision.¹⁸ In a positive development and in line with international jurisprudence,

¹⁵ 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”. Paragraph 32.5 of the 1990 OSCE Copenhagen Document states that “persons belonging to national minorities have the right (...) to disseminate, have access to and exchange information in their mother tongue”. Paragraph 12 of the 1996 UN CCPR General Comment 25 to Article 25 of the ICCPR states: “Information and materials about voting should be available in minority languages”.

¹⁶ Organizations of people with disabilities reported that some polling places that were marked on the CEC website as adapted for persons with reduced mobility could only be accessed by stairs. See the [data](#) published by the Lithuanian Disability Forum.

¹⁷ Paragraph 41.5 of the 1991 OSCE Moscow Document calls on participating States “to encourage favourable conditions for the access of persons with disabilities to public buildings and services”.

¹⁸ The evolving case law of the European Court of Human Rights (ECtHR) calls for proportionality of the restrictions on voting rights of persons with mental disabilities; see [Alajos Kiss v. Hungary](#) (2010). The UN Committee on the Rights of Persons with Disabilities noted concerns about undue restrictions on the legal capacity of voters with disabilities. See “[Concluding Observations on Lithuania](#)” (11 May 2016), CRPD/C/LTU/CO/1, paragraph 57.

the Civil Code was amended to specify that incapability is to be established by court on a case-by-case basis, depending on specific circumstances.¹⁹

Voter registration is passive, except for those who reside abroad who must actively register.²⁰ The voter register is extracted from the population register and regularly updated based on inputs provided by the Residents Registry.²¹ Although the PEL entitles party representatives to inspect voter lists and to lodge complaints related to voter registration, in practice voter lists were not publicly available.²² Voters were given a possibility to check their data in voter lists at PECs, through a dedicated telephone hotline and online, and to request corrections. Complaints related to errors or duplicate entries could be lodged to PECs, with their decisions appealable to regional administrative courts within three days. The OSCE/ODIHR EAM was not informed of any formal complaints related to voter registration and its interlocutors expressed confidence in the accuracy and inclusiveness of voter lists.

To further increase transparency, consideration could be given to making voter lists available for public scrutiny, while maintaining the security of personal data.

On 2 October, the CEC approved the final voter list with a total of 2,504,267 voters. While voters were assigned to specific polling stations, they could vote at any polling station within their constituency and could be added to supplementary voter lists by the PECs, until two hours before the close of polls, based on proof of residence.²³ On election day, the PECs used the IT system to instantly check whether the voter had already voted and to mark voters in the national electronic list. The IT system generally worked well on election day and provided an effective safeguard against multiple voting.

VIII. CANDIDATE REGISTRATION

Eligible voters of at least 25 years of age on election day with registered residence in the country may stand for election. A number of restrictions on candidacy are imposed. Judges, active and alternative military personnel who have not retired from the service, officials of statutory institutions and establishments, individuals who have not finished serving a prison sentence 65 days prior to elections, and persons bound by an oath or allegiance to a foreign state are not eligible to stand. Candidacy restriction based on possession of citizenship of another state is at odds with the jurisprudence of the European Court of Human Rights (ECtHR).²⁴ Potential candidates are obliged to declare to the CEC if they collaborated with “special services of other states” and if they have current or prior criminal

¹⁹ Amendments came into force in January 2015 and all court decisions regarding individual legal incapability issued prior to that date must be reviewed by 1 January 2018. See Article 29a of the 2006 CRPD. See also, paragraph 9.4 of the [2013 CRPD Committee’s Communication No. 4/2011 \(Zsold Bujdoso and five others v. Hungary\)](#) which stated that: “Article 29 does not foresee any reasonable restriction, nor does it allow any exception for any group of persons with disabilities. Therefore, an exclusion of the right to vote on the basis of a perceived or actual psychosocial or intellectual disability, including a restriction pursuant to an individualized assessment, constitutes discrimination on the basis of disability, within the meaning of article 2 of the Convention”.

²⁰ In total, 3,249 citizens registered to vote abroad and 279 to vote aboard ships.

²¹ The Residents Registry, under the Ministry of Interior, receives data from municipal administration civil registry units, local migration boards, municipalities, and community councils.

²² Section I.1.2.iii of the 2002 Venice Commission’s Code of Good Practice in Electoral Matters recommends that “electoral registers must be published”.

²³ Section I.1.2.iv of the 2002 Venice Commission’s Code of Good Practice in Electoral Matters recommends that “polling stations should not be permitted to register voters on election day itself”.

²⁴ See [Tanase v. Moldova](#) (application no. 7/08, 27 April 2010).

convictions. The information on the latter is included in voter information materials without distinction as to types or gravity of offences.

Restrictions on candidate rights for people with dual citizenship should be removed. Consideration could be given to reviewing the purpose and format of including information on prior criminal convictions on voter information materials.

In addition, the Constitution and the PEL limit candidacy rights of individuals removed from office through impeachment proceedings. In 2011, the ECtHR ruled that the lifetime ban is a disproportionate punishment that violates the right to free elections.²⁵ To comply with the ECtHR judgment, the parliament amended the PEL in 2012 to limit the ban to four years. However, this change was found unconstitutional by the Constitutional Court, which reiterated that the lifetime ban can only be revoked through constitutional amendments by the parliament's qualified majority. Two attempts were made by the outgoing parliament to amend the Constitution; however, both failed due to lacking political consensus. The OSCE/ODIHR recommended in 2012 that the lifetime ban be removed, in line with the respective ECtHR ruling, OSCE commitments, and international standards.

The lifetime ban on candidacy rights of individuals who have been removed from office through the impeachment procedure should be repealed to comply with the respective ECtHR ruling.

Candidates can be nominated by registered political parties and, in single-mandate constituencies, also through self-nomination.²⁶ All contestants are required to pay an electoral deposit, which is refunded to those receiving over three per cent of the votes in the constituency. Individual candidacies and nominations from parties not competing in the proportional race must be supported by signatures of no less than 1,000 registered voters in the corresponding constituency. Although it did not appear to have impeded registration, the number of required support signatures ranged from 2.5 to 4.4 per cent of the number of voters per constituency, exceeding the limit considered as good electoral practice.²⁷

The required number of candidate support signatures could be decreased to a maximum of one per cent of the number of voters in a given constituency.

In an inclusive process, the CEC registered all the 16 political parties that submitted candidates, 4 of which formed 2 electoral coalitions. A total of 1,415 candidates contested the elections, including 1,387 candidates in the proportional race and 673 in single-mandate constituencies.²⁸ Women amounted to 31 per cent of all candidates and only 21 per cent of newly-elected MPs.²⁹ Despite previous OSCE/ODIHR recommendations, the law as well as statutes of most of political parties do

²⁵ See [Paksas v. Lithuania](#) (application no. 34932/04, 6 January 2011). See also the [2014 UN Human Rights Committee communication](#) No. 2155/2012.

²⁶ Following amendments to the Law on Political Parties in force since December 2015, the membership requirement for political parties was increased from 1,000 to 2,000 members.

²⁷ Section I.1.3.ii of the 2002 Venice Commission's Code of Good Practice in Electoral Matters recommends that "the law should not require collection of signatures of more than 1% in the constituency concerned".

²⁸ Seventeen independent candidates stood in single-mandate contests, while 647 party candidates stood concurrently on proportional lists and in single-mandate constituencies.

²⁹ The Electoral Action of Poles in Lithuania – Christian Families Alliance and the Political Party List of Lithuania fielded the highest numbers of women candidates, 51.7 and 48.7 per cent respectively, and also included the highest numbers of women candidates in winnable positions. The number of women nominated by the Peasant and Greens Union (22.6 per cent), the Liberals Movement (23.4 per cent), and the Homeland Union – Christian Democrats (25.5 per cent) were among the smallest.

not provide for any special measures aimed at enhancing the participation and representation of women.³⁰

Political parties could be encouraged to promote gender equality, to increase visibility of female candidates during election campaigns and to integrate gender issues into their platforms. The introduction of a gender requirement for nomination of party lists could be considered as a temporary legislative measure.

The contestants had to submit most of the documents for registration by 5 August.³¹ Article 39.5 of the PEL requires the CEC to inform contestants of shortcomings identified in their registration documents, but does not explicitly stipulate whether mistakes can be corrected and, if so, until when. The CEC provided initial verification of the documents and decided on registration of the contestants. The PEL allows the CEC to continue verification of candidate registration documents for compliance with a broad range of legal requirements for another 18 days beyond this initial candidate registration. Nine candidates were rejected at this stage with their initial registrations cancelled by the CEC upon such verification of documents. Three of the rejected candidates challenged their de-registration and the inability to correct the revealed mistakes to the Supreme Administrative Court. The Court upheld the de-registrations based on Article 38.4 of the PEL, which states that information provided after the deadline for the submission of candidate applications is not accepted. The lack of clear deadlines leaves candidates without an opportunity to rectify the mistakes during the verification period that might result in their de-registration.

Support signatures could be collected using paper signature lists or the CEC-administered electronic system. Independent candidates that the OSCE/ODIHR EAM met with reported that this electronic system occasionally malfunctioned and proved overly cumbersome. As a result, only a minor fraction of signatures was collected electronically. The ConECs regarded the signature verification provisions in the PEL and in a CEC recommendation as sufficiently clear. However, the process of registration of independent candidates can be made smoother by adjusting several legal deadlines.³² The OSCE/ODIHR EAM was not informed of any formal complaints related to constituency-level candidate registration procedures.

Candidate registration provisions could be reviewed with a view to adjusting the deadlines for the submission and verification of nomination documents, and providing candidates with a genuine opportunity to rectify the mistakes revealed before or during the verification process.

³⁰ Of parliamentary parties, only the Social-Democratic Party's statute contains gender-related requirements for candidate nominations. However, the party was short of meeting own requirements, having nominated more than 60 per cent of candidates of one gender (66 per cent male candidates) and having not ensured that there be no more than three candidates of the same gender per each five positions. See also Article 4 of CEDAW and UN Committee on the Discrimination against Women "[Concluding Observations on Lithuania](#)" (24 July 2014), CEDAW//C/LTU/CO/5, paragraph 28-29.

³¹ According to the PEL, the supporting signatures must have been submitted to ConECs no later than 40 days before election day, and the ConEC had to verify the signatures within a 10 day period.

³² The deadline for the formation of ConECs (16 July) coincides with the beginning of the period when nomination documents can be submitted to ConECs by independent candidates, creating difficulties with practical implementation. The deadline for the CEC to decide on candidate registration (8 September) does not give ConECs the full 10 days provided by the law for the verification of signatures presented on 30 August, the legal deadline for the submission of supporting signatures. The deadline for ConECs to finalize the constituency brochure on candidates' programs (26 August) set in the CEC recommendation No. 85 lays several days ahead of the deadline for candidates to submit supporting signatures and for the CEC to register these candidates (8 September).

IX. ELECTION CAMPAIGN

Although the campaign formally started on 9 April with the announcement of elections, it was mostly low-key and only became more visible closer to election day. Many stakeholders opined that this resulted, in part, from tighter regulation in a number of areas as compared to the last parliamentary elections. Nevertheless, contestants did not raise any concerns as to their ability to campaign freely and underscored that fundamental freedoms were respected. Paid political advertising in the media was one of the main campaign tools. Billboards, posters, and leaflets were also produced and social media were extensively used.

While voters had a broad range of contestants to choose from, it was widely acknowledged that political parties do not always have clearly distinct ideological positions and that the traditional left-right divide is blurred. Campaign topics that featured prominently included low wages, social issues, labour emigration, and political corruption. Questions concerning country's energy policies were also discussed. Issues related to women were addressed only by a few parties, focusing mainly on family-related policies. Positively, the platforms of nearly all major political parties included sections for the enhancement of opportunities for people with disabilities.³³

Vote-buying incidents in previous elections were assessed by many stakeholders as having diminished public confidence. Concerns related to vote-buying continued to be heard during this campaign, although the scale of this malpractice was assessed by OSCE/ODIHR EAM interlocutors as being considerably lower than in the past. In 2015, the PEL was amended to prohibit financial inducements to voters of any value. While most stakeholders met with by the OSCE/ODIHR EAM assessed this change positively as having strengthened the framework and encouraged issue-base campaigning, some argued that the definition of vote-buying is overly restrictive.

Additionally, the legal requirement that there be proof that a voter altered his/her choice as a result of vote-buying, as well as the absence of effective sanctions before election day, were seen as major challenges to effective enforcement.³⁴ In the run-up to the first round of voting, the CEC considered over 50 cases of alleged vote-buying and hidden political advertising during the campaign and established violations in only a few of them.

X. CAMPAIGN FINANCE

A. FUNDING SOURCES AND CAMPAIGN EXPENDITURE

Campaign finance is regulated by the Law on Funding of Political Campaign and Control of Funding. It was amended in 2012 and 2013 and addressed several recommendations made by the OSCE/ODIHR and the Group of States against Corruption of the Council of Europe (GRECO), including establishing limits for political party membership fees, providing annual oversight of public financing to parties, and strengthening sanctions for financial violations.³⁵

³³ See the [analysis of political party platforms](#) carried out by the Lithuanian Disabilities Forum.

³⁴ On 20 July, the government approved draft amendments to the Criminal Code envisaging responsibility for mere attempts to influence voters through gifts and other inducements. These amendments were not endorsed by the parliament before these elections.

³⁵ See GRECO reports on Transparency of Party Funding in Lithuania, including the [Evaluation Report](#), the [Compliance Report](#), and the [Second Compliance Report](#).

Electoral campaigns can be financed from political party funds, bank loans, donations from citizens, candidates' personal funds, and interests received on the funds kept in a bank.³⁶ Each contestant's designated campaign treasurer is responsible for opening a unique bank account, collecting funds, and making campaign-related payments.

The campaign spending limit is linked to the number of voters per constituency and was defined by the CEC as EUR 740,000 for the nationwide contest and between EUR 19,000 and EUR 22,000 for single-mandate constituencies.³⁷ As a result, a political party with candidates in the proportional contest and in all single-mandate constituencies could spend up to approximately EUR 2.2 million. According to the law, no more than 50 per cent of the spending limit can be used for campaign spots on television. The spending limit applies to the official six-month campaign period, but the CEC can decide to count the expenses incurred before the start of the campaign towards the spending limit if deemed as electoral.³⁸

The law does not explicitly prohibit third parties (including associations, foundations or private individuals) to campaign for or against a candidate, as long as they are not formally connected to electoral contestants. Furthermore, the CEC's May 2016 recommendation states that information disseminated by third parties for campaign purposes, as long as it is not frequent and does not require a significant financial input, does not constitute political advertising. Some OSCE/ODIHR EAM interlocutors raised concerns over potential circumvention of the legal prohibition to directly finance electoral campaigns by third parties. The role played by these third parties, which are not obliged to report on their sources of funding and their expenses, was identified by some OSCE/ODIHR EAM interlocutors as potentially undermining the transparency of the campaign finance system.³⁹

Consideration could be given to further defining the term 'third parties' for campaign finance purposes and extending regulations to these groups, including donations, expenditure limits, and reporting requirements.

B. DISCLOSURE AND REPORTING

A defining element of the campaign finance system is transparency, ensured by frequent and detailed disclosure. Campaign treasurers must submit to the CEC a financial report on campaign funds and expenses with all the supporting documents no later than 25 days after the publication of final election results. However, if campaign funds received exceed EUR 53,000, the financial report must first be audited at the contestant's own expense, and submitted within 85 days after the publication of election results.⁴⁰

Upon receipt of donations, campaign treasurers must verify in a CEC-administered database on donations whether donors are eligible. All donations are then disclosed within 10 working days from

³⁶ Donations are capped at EUR 7,570 and annual person's total contributions may not exceed 10 per cent of the stated income for the previous year. Candidates' own funds cannot exceed EUR 15,140.

³⁷ The expenditure limit for a single-mandate constituency is defined as EUR 0.58 multiplied by the number of voters in the constituency.

³⁸ According to Article 23.1(6) of the Law on Funding of Political Campaigns and Control of Funding, electoral contestant's undeclared expenditure exceeding 10 per cent of the spending limit constitutes a gross violation of the law.

³⁹ Article 7.3 of the 2003 United Nations Convention against Corruption provides that states should "consider taking appropriate legislative and administrative measures [...] to enhance transparency in the funding of candidatures for elected public office and, where applicable, the funding of political parties".

⁴⁰ If contestant's total funds do not exceed EUR 53,000, the CEC is to pay for the verification of the corresponding financial report by an auditor.

the date of receipt. Throughout the campaign period, all electoral contestants complied with this requirement and contributions were regularly disclosed on the CEC website. All financial and audit reports should be made public by the CEC on its website within 100 days of the announcement of final results.

C. OVERSIGHT AND SANCTIONS

The CEC is the main campaign finance oversight body, while the State Tax Inspectorate (STI) is in charge of verifying donor eligibility. No OSCE/ODIHR EAM interlocutors raised questions as to the capacity and effectiveness of these institutions.

The CEC may impose financial sanctions in cases of gross violations of the law and turn to law enforcement agencies in cases of criminal infringements. However, according to many OSCE/ODIHR EAM interlocutors, the sanctions envisaged by the law are not always proportionate, effective, and dissuasive, resulting in perceptions of over-regulation in some areas and under-regulation in others.⁴¹ The law does not provide for a graduated system of sanctions for campaign finance violations and the CEC can either impose very strict financial sanctions (on political parties but not majoritarian candidates), such as the loss of public funds for a two-year period, or seemingly low administrative fines (on parties and majoritarian candidates).

Consideration could be given to amending the law in order to provide for proportionate, effective, and dissuasive campaign finance related sanctions that apply to all electoral contestants.

XI. MEDIA

A. MEDIA ENVIRONMENT AND LEGAL FRAMEWORK

The media environment is diverse, with 48 radio and 54 television broadcasters, over 100 national and regional periodicals, and several influential news portals. Over 77 per cent of the population uses Internet regularly and it plays an increasingly important role in campaign coverage.⁴² National Radio and Television of Lithuania (LRT) is the public broadcaster.⁴³ Since 2015, commercial advertising on LRT is banned and its annual budget is fixed as a percentage of state's tax revenues, contributing to the independence of the public broadcaster. Print media, including a number of regional newspapers enjoy considerable readership.

Several OSCE/ODIHR EAM interlocutors raised concerns that the commercial pressure from big advertisers and media-affiliation to business or political interests has had a negative effect on the plurality of opinions and the quality of journalism.

Freedom of expression is enshrined in the Constitution and is generally respected. In 2015, insult was repealed from the list of criminal charges. However, contrary to international standards, and earlier

⁴¹ Article 16 of the Council of Europe's Committee of Ministers Recommendation Rec(2003)4 on common rules against corruption in the funding of political parties and electoral campaigns stipulates that "States should require the infringement of rules concerning the funding of political parties and electoral campaigns to be subject to effective, proportionate, and dissuasive sanctions".

⁴² See [Internet Live Stats 2016 Data](#).

⁴³ The LRT operates three television channels, three radio channels, and an online news portal.

recommendations by the OSCE/ODIHR and the OSCE Representative on Freedom of the Media (RFoM) defamation remains criminalized.⁴⁴

To fully guarantee the freedom of expression, provisions that foresee criminal liability for defamation should be removed.

Media conduct during the campaign period is extensively regulated by laws and self-regulatory mechanisms. In addition, the CEC is vested with powers of a primary regulator and its decisions set the rules for campaign coverage. The complex institutional set-up appears to obfuscate media oversight, affecting the clarity of procedures and timeliness of remedy.⁴⁵

Political advertising is defined in ambiguous terms as information, which is intended to influence the voters, regardless of whether it is paid for or not. At the same time, the law requires all political advertising to be marked as such, with an indication of sources of funding.⁴⁶ Any unmarked political advertising is regarded as “hidden advertising” and is prohibited. The CEC is obliged to investigate cases of “hidden advertising” in media, balancing on a sensitive line between legitimate coverage of political opinions and undeclared political advertisements. According to many OSCE/ODIHR EAM interlocutors, the vague definition of political advertising leaves space for arbitrary decisions and has the potential to result in infringements on free expression.⁴⁷

To protect the freedom of expression and the quality of editorial coverage, rules governing media conduct during campaign should be reviewed to clearly distinguish paid political advertising from other forms of campaign coverage.

LRT provided candidate lists with free airtime on an equal basis, including through debates. The set-up of television and radio debates was decided upon by the CEC, which also finances them. Private media were obliged to provide contestants with equal conditions for paid advertising and to announce the rates before the campaign.

A campaign silence period started 30 hours before the opening of polls and lasted until the end of voting and was respected by media. The CEC called on social media users to respect it and warned of a possibility of administrative fines for those who share or “like” political and campaign-like posts.⁴⁸

⁴⁴ Paragraph 47 of the 2011 UN CCPR General Comment No. 34 to Article 19 of the ICCPR prescribes that states “should consider decriminalization of defamation”. See also June 2015 [statement by the OSCE RFoM on defamation laws reform in Lithuania](#).

⁴⁵ Following a complaint, the CEC working group found that a television spot by the Labour Party “What People Think about Refugees” incited hatred and recommended to discontinue its broadcasting. Radio and Television Commission of Lithuania, which outside campaign periods serves as the main regulator for audio-visual media, was consulted and expressed the same view. Nevertheless, the case was forwarded for assessment to another media regulatory body, the Office of the Inspector of Journalist Ethics. Due to the lack of clear deadlines, the complaint remained unresolved during the campaign.

⁴⁶ Political advertisements cannot be published on the front pages of newspapers or be shorter than 30 seconds on television and radio.

⁴⁷ Paragraphs 21-25 of the 2011 UN CCPR General Comment No. 34 to Article 19 of the ICCPR indicate that “the exercise of the right to freedom of expression carries with it special duties and responsibilities. For this reason two limitative areas of restrictions on the right are permitted[...]. However, when a State party imposes restrictions on the exercise of freedom of expression, these may not put in jeopardy the right itself... Restrictions must be provided by law... For the[se] purposes ... a norm, to be characterized as a “law”, must be formulated with sufficient precision to enable an individual to regulate his or her conduct accordingly and it must be made accessible to the public”.

⁴⁸ Some CEC members expressed a concern that the CEC chair did not consult with all the commissioners before he announced that violations of campaign silence in social media might entail fines.

B. COVERAGE OF THE ELECTION CAMPAIGN

The broad definition of political advertising, in combination with strict legal regulations on campaign coverage and formalistic oversight by the CEC resulted in stifled campaign coverage and controversies between the media and the CEC over perceived interference in editorial independence. Some OSCE/ODIHR EAM interlocutors opined that these developments could lead to self-censorship in campaign coverage.

The CEC undertook an investigation of two articles about the Peasant and Greens Union in delfi.lt and lrt.lt, two popular news portals, upon complaints that the materials contained hidden political advertising. In a public CEC meeting on 21 July, journalists were questioned about their motives and editorial practices, drawing criticism from the media community. In another case, the Prime Minister dropped out of a live interview with LRT television citing advice from the CEC that participation would breach the law, which required announcements by candidates, who are acting public officials, to be made only via press conferences.

To mitigate the situation the CEC agreed with a media self-regulatory body, Public Information Ethics Association, to consult it before making decisions on complaints involving journalistic activities. However, the Association's opinions are not legally binding.

Clear roles should be defined for the CEC and other media regulatory and self-regulatory bodies with regards to media oversight during the election campaign.

Media overall provided voters with a wide range of views and information. The LRT organized 12 television and 7 radio debates between the candidate lists, although their rigid set-up was seen by some OSCE/ODIHR EAM interlocutors as resulting in low viewership.⁴⁹ Smaller parties informed the OSCE/ODIHR EAM that the legal provision allowing participants to agree among themselves whom to debate with deprived them of an opportunity to confront larger parties. Following a ruling of Supreme Administrative Court, all majoritarian candidates were given 3 minutes of free airtime on LRT *Klasika* radio, resulting in 10 programmes each running for 4.5 hours.⁵⁰ Debates organized by the private media and campaign coverage in national and regional newspapers contributed to an informed choice of voters.

XII. PARTICIPATION OF NATIONAL MINORITIES

Based on the 2011 census, national minorities in Lithuania comprise about 15 per cent of the population. Poles are the largest minority with 6.6 per cent of the population, followed by Russians (5.8 per cent), Belarusians (1.2 per cent), and other smaller minority groups.⁵¹

Minorities enjoy constitutionally protected rights, including the right to foster their languages, culture, and customs. Lithuania is also a party to the 1994 Council of Europe Framework Convention for the Protection of National Minorities. The legal framework provides for the participation of national minorities in the electoral process on an equal basis. The establishment of political parties based on ethnic grounds is permitted. The Electoral Action of Poles in Lithuania – Christian Families Alliance, the Russian Alliance, and the Union of Russians are the registered political parties representing

⁴⁹ According to the LRT, debates were watched only by two per cent of the television audience.

⁵⁰ On 16 September, the Court partially upheld an appeal of five majoritarian candidates and ordered the CEC to grant majoritarian candidates a possibility to debate on the public broadcaster.

⁵¹ See [the official 2011 census data](#).

national minority interests. Some of the OSCE/ODIHR EAM interlocutors shared a concern that minority interests are primarily represented through these parties with very limited outreach from other parties on substantive issues to minorities.⁵²

The CEC informed the OSCE/ODIHR EAM that out of the total number of candidates, 164 identified themselves as belonging to ethnicities other than Lithuanian, and stood both in single-mandate and proportional contests.

According to some OSCE/ODIHR EAM interlocutors, several elements of the legal framework do not facilitate minority representation.⁵³ These include the thresholds for entering the parliament,⁵⁴ the increased membership requirement for parties to be registered, and the recently introduced restriction on the inclusion of candidates from other parties in party lists.⁵⁵

Upon consultation with national minorities, special measures could be introduced to facilitate minority participation and representation in public and political life. These could include lowered thresholds and party membership requirements for minority parties.

Ballots were available only in Lithuanian language.⁵⁶ Voter education and information materials were translated and published in Polish and Russian in two minority language newspapers. However, representatives of national minorities expressed their concern to the OSCE/ODIHR EAM that such materials, as well as information on parties and candidates in minority languages were not as comprehensive as those produced in Lithuanian and were not widely available, including on the CEC website. Public debates were broadcast in Lithuanian only, limiting information available to citizens from national minorities, particularly the elderly who are more likely to face language barriers.⁵⁷

⁵² This was also noted as a concern by the [Advisory Committee on the Framework Convention for the Protection of National Minorities, Third Opinion on Lithuania](#), ACFC/OP/III(2013)005, paragraph 94.

⁵³ The UN Committee on the Elimination of Racial Discrimination in their [2009 General Recommendation 32](#) called on the party States to use special measures in implementing Article 5 of the ICERD, including “legislative, executive, administrative, budgetary and regulatory instruments, at every level in the State apparatus ... in areas such as ... participation in public life for disfavoured groups, devised and implemented on the basis of such instruments.” See also paragraph 31 of the 1990 OSCE Copenhagen Document, which provides that: “The participating States will adopt, where necessary, special measures for the purpose of ensuring to persons belonging to national minorities full equality with the other citizens in the exercise and enjoyment of human rights and fundamental freedoms.”

⁵⁴ The OSCE High Commissioner for National Minorities [Lund Recommendations on the Effective Participation of National Minorities in Public Life](#) state that “Lower numerical thresholds for representation in the legislature may enhance the inclusion of national minorities in governance”. See also paragraph I.2.4 of the 2002 Venice Commission Code of Good Practice in Electoral Matters.

⁵⁵ Following 2015 amendments, a contestant that has put forward a candidate list, which includes two or more representatives of another party, is regarded as a coalition. The higher threshold of seven per cent is then applied, making it more difficult for smaller parties, including minority parties, to compete. Paragraph 76 of the [2010 OSCE/ODIHR and Venice Commission Guidelines on Political Party Regulation states](#): “Although limitations based on minimum support established through the collection of signatures are legitimate, the state must ensure they are not overly burdensome as to restrict the political activities of small parties or to discriminate against parties representing minorities”.

⁵⁶ In its [2006 decision](#), the Constitutional Court ruled that the use of minority languages on the ballots contradicts the provision of the Constitution, which identifies Lithuanian as the state language and imposes its exclusive use in the public domain.

⁵⁷ The Advisory Committee on the Framework Convention for the Protection of National Minorities recommended in its [Thematic Commentary no. 3 “The Language Rights of Persons Belonging to National Minorities under the Framework Convention”](#), paragraph 92, that “The authorities should also consider providing opportunities for the use of minority languages in public service television and radio programmes devoted to election campaigns and on ballot slips and other electoral material in areas inhabited by persons belonging to national minorities traditionally or in substantial numbers”.

According to the CEC, contestants could request subtitles during the debates, but only at their own expense.

Effective participation of national minorities could be supported by producing comprehensive voter education and information materials in minority languages and making them broadly available, especially in minority-populated areas. Publicly funded subtitling of debates into minority languages on public television could be considered.

National minorities were represented in the PECs and ConECs. The PECs visited by the OSCE/ODIHR EAM appeared to reflect the diversity of the local population.

XIII. CITIZEN AND INTERNATIONAL OBSERVATION

The PEL provides for international election observation but, despite previous OSCE/ODIHR recommendations, does not explicitly ensure observation by citizen groups.⁵⁸ The CEC notwithstanding, in an inclusive manner, accredited 99 international and some 200 citizen observers.⁵⁹ The law entitles political parties and independent candidates to appoint up to two observers per PEC leaving criteria for their accreditation and their status at the discretion of the CEC. The contestants made wide use of their opportunity to appoint observers as well as proxies to the CEC and corresponding ConECs, enhancing transparency.

In line with the OSCE commitments, the law should explicitly provide for the access of citizen observers to all stages of the electoral process and clearly define rights and obligations of all observers, as well as criteria for their accreditation.

XIV. COMPLAINTS AND APPEALS

The complaints and appeals system generally provides for a timely remedy in election-related disputes, although some OSCE/ODIHR EAM interlocutors considered the deadlines for campaign and media-related complaints unclear. Decisions of election commissions can be appealed by contestants, their proxies, as well as by observers to higher-level election commissions. CEC decisions, except on final election results, may be appealed within five days to the Supreme Administrative Court, which adjudicates these within two days as the final instance. In the run-up to the first round of voting, eight complaints were lodged against the CEC; the Court partially upheld one of them and granted majoritarian candidates a possibility to participate in debates on the public broadcaster.

At odds with a previous OSCE/ODIHR recommendation, only candidates and their parties, but not voters, can challenge the final election results to the Constitutional Court.⁶⁰ The complaint has to be made through the parliament or the president within 24 hours of the announcement of the final results. The Constitutional Court then has 120 hours to decide on the complaint; the deadline was extended in 2015 in line with a previous OSCE/ODIHR recommendation. The Court's conclusions are then

⁵⁸ Paragraph 8 of the 1990 OSCE Copenhagen Document provides that “the participating States consider that the presence of observers, both foreign and domestic, can enhance the electoral process for States in which elections are taking place”.

⁵⁹ One citizen group deployed its observers throughout the country.

⁶⁰ Section 3.3.f of the 2002 Venice Commission Code of Good Practice in Electoral Matters recommends that “All candidates and all voters registered in the constituency concerned must be entitled to appeal. A reasonable quorum may be imposed for appeals by voters on the results of elections”.

submitted to the outgoing parliament and constitute a basis for the final decision taken by the latter on the validity of election results. Contrary to OSCE commitments and international good practice, the law does not provide a mechanism for the parliament's final decision on election validity to be appealed to a judicial authority.⁶¹

The law should provide for judicial review of final election results by a competent court.

XV. ELECTION DAY AND POST-ELECTION DEVELOPMENTS

In line with OSCE/ODIHR methodology, the OSCE/ODIHR EAM did not observe election day proceedings in a systematic or comprehensive manner, but visited a limited number of polling stations on election day and observed opening, voting, and counting procedures.

The voting process in polling stations visited by the OSCE/ODIHR EAM was orderly and procedures were mostly followed. The transparency was enhanced by an extensive presence of candidate and party observers, who, however, at times, were observed to be interfering in the work of PECs. In a few instances of homebound voting observed by the OSCE/ODIHR EAM the process was adequate and the secrecy of the vote was respected.

The counts followed by the OSCE/ODIHR EAM were well organized and PEC members demonstrated a sufficient understanding of procedures. The step-by-step electronic protocol guided PEC members and required mistakes to be corrected before moving onto next steps, while the system for the count of preference votes contributed considerably to the swiftness of the process. In counts followed, an overly strict approach was observed on establishing ballot validity, whereas some ballots were invalidated even when the voter's intent appeared to be clear.⁶² The CEC began posting PEC voting results around midnight.

Following the first-round of voting, the CEC received some 35 complaints alleging violations of election day procedures, including several requests for recounts and annulment of results. A limited number of recounts were carried out but did not reveal significant differences from the original results. The results of the first round of voting were approved by the CEC on 16 October and the run-off elections took place in 68 single-mandate constituencies on 23 October.

One challenge against the CEC decision on election results was lodged with the Supreme Administrative Court by a majoritarian candidate, who alleged irregularities during the first round of voting. The Court rejected the case due to lack of its competence to consider complaints against election results.

The CEC considered six complaints regarding alleged irregularities in the second rounds.⁶³ While establishing the election results, based on the findings of pre-trial investigation carried out by the Office of the Prosecutor, the CEC de-registered one candidate from Order and Justice's list in

⁶¹ Paragraph 18.4 of the 1991 OSCE Moscow Document states that "the participating States will endeavor to provide for judicial review of such [administrative] regulations and decisions." Section II.3.3.a of the 2002 Venice Commission Code of Good Practice in Electoral Matters recommends that "Appeal to parliament, as the judge of its own election, is sometimes provided for but could result in political decisions. It is acceptable as a first instance in places where it is long established, but a judicial appeal should then be possible".

⁶² The OSCE/ODIHR EAM observed that only a cross or a check mark were accepted as valid marks, while the PEL states that a ballot is invalid only when it is impossible to ascertain the voter's will.

⁶³ Of these, only two were accepted, one resulting in an annulment of an observer accreditation and the other in a disciplinary measure against a ConEC chairperson.

connection with alleged vote-buying during the first round of voting.⁶⁴ While the CEC acted within their competence to de-register candidates based on gross violations of the law, the legal framework does not specify how the CEC should establish the facts of such violations, including for vote-buying. The disqualified candidate appealed the CEC decision and final election results to the Supreme Administrative Court; the complaint was also rejected due to lack of jurisdiction challenging the right for an effective redress against administrative decisions.⁶⁵

Final election results were approved by the CEC on 30 October, in line with the legal deadline, and published on its website in open data format contributing to transparency. Newly-elected MPs received their mandates on 3 November. No complaints were filed with the Constitutional Court with regards to the final results.

XVI. RECOMMENDATIONS

These recommendations, as contained throughout the text, are offered with a view to further enhance the conduct of elections in Lithuania 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 Lithuania to further improve the electoral process and to address the recommendations contained in this and previous reports.⁶⁶

A. PRIORITY RECOMMENDATIONS

1. The legal framework should be reviewed to address past and present OSCE/ODIHR recommendations and address existing gaps and ambiguities. Reform should be undertaken well in advance of the next elections and involve open consultation with all stakeholders.
2. To protect the freedom of expression and the quality of editorial coverage, rules governing media conduct during campaign should be reviewed to clearly distinguish paid political advertising from other forms of campaign coverage.
3. Restrictions on candidate rights for people with dual citizenship should be removed. Consideration could be given to reviewing the purpose and format of including information on prior criminal convictions on voter information materials.
4. Consideration could be given to amending the law in order to provide for proportionate, effective, and dissuasive campaign finance related sanctions that apply to all electoral contestants.
5. Upon consultation with national minorities, special measures could be introduced to facilitate minority participation and representation in public and political life. These could include lowered thresholds and party membership requirements for minority parties.

⁶⁴ At the time of de-registration, there was no court decision establishing the guilt of the candidate.

⁶⁵ Paragraph 5.10 of the 1990 OSCE Copenhagen Document provides that “everyone will have an effective means of redress against administrative decisions, so as to guarantee respect for fundamental rights and ensure legal integrity”. See also paragraph 18.4 of the 1991 OSCE Moscow Document.

⁶⁶ 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”.

6. In line with the OSCE commitments, the law should explicitly provide for the access of citizen observers to all stages of the electoral process and clearly define rights and obligations of all observers, as well as criteria for their accreditation.

B. OTHER RECOMMENDATIONS

7. The CEC should further intensify its efforts of providing accessible and comprehensive voter education and information to all groups of voters, particularly to persons with disabilities and national minorities.
8. Election authorities should continue their efforts to facilitate voting for persons with disabilities in close consultation with their representative organizations, and all municipal authorities should implement the existing criteria for making polling stations accessible.
9. To further increase transparency, consideration could be given to making voter lists available for public scrutiny, while maintaining the security of personal data.
10. To enhance the transparency and public confidence in the IT systems facilitating electoral processes, the authorities could publicly and comprehensively test the system before every elections and publish the relevant technical documentation.
11. The lifetime ban on candidacy rights of individuals who have been removed from office through the impeachment procedure should be repealed to comply with the respective ECtHR ruling.
12. The required number of candidate support signatures could be decreased to a maximum of one per cent of the number of voters in a given constituency.
13. Candidate registration provisions could be reviewed with a view to adjusting the deadlines for the submission and verification of nomination documents, and providing candidates with a genuine opportunity to rectify the mistakes revealed before or during the verification process.
14. Political parties could be encouraged to promote gender equality, to increase visibility of female candidates during election campaigns and to integrate gender issues into their platforms. The introduction of a gender requirement for nomination of party lists could be considered as a temporary legislative measure.
15. Consideration could be given to further defining the term ‘third parties’ for campaign finance purposes and extending regulations to these groups, including donations, expenditure limits, and reporting requirements.
16. To fully guarantee the freedom of expression, provisions that foresee criminal liability for defamation should be removed.
17. Clear roles should be defined for the CEC and other media regulatory and self-regulatory bodies with regards to media oversight during the election campaign.
18. Effective participation of national minorities could be supported by producing comprehensive voter education and information materials in minority languages and making them broadly

available, especially in minority-populated areas. Publicly funded subtitling of debates into minority languages on public television could be considered.

19. The law should provide for judicial review of final election results by a competent court.

ANNEX: FINAL RESULTS

Votes cast in proportional contest

Number of eligible voters	2,514,657	
Total votes cast (turnout)	1,273,427	50.6%
including		
Valid votes	1,220,958	95.8%
Invalid votes	52,469	4.1%
Early votes	166,103	13.0%

Allocation of Mandates

Political Party or Coalition	Number of Votes	Percentage	Number of Mandates		
			in proportional race	Proportional	Majoritarian
Homeland Union – Christian Democrats	276,275	21.7	20	11	31
Peasant and Greens Union	274,108	21.5	19	35	54
Social Democratic Party	183,597	14.4	13	4	17
Liberals Movement	115,361	9.1	8	6	14
Anti-Corruption Coalition of Puteikis and Krivickas	77,114	6.1	-	-	-
Electoral Action of Poles in Lithuania – Christian Families Alliance	69,810	5.5	5	3	8
Order and Justice Party	67,817	5.3	5	3	8
Labour Party	59,620	4.7	-	2	2
Freedom Union (Liberals)	27,274	2.1	-	-	-
Green Party	24,727	1.9	-	1	1
Political Party ‘List of Lithuania’	21,966	1.7	-	1	1
People’s Party	12,851	1.0	-	-	-
Coalition of Buškevičius and Nationalists ‘Against Corruption and Poverty’	6,867	0.5	-	-	-
Political Party ‘Way of Courage’	3,498	0.3	-	-	-
Lithuanian Centre Party	-	-	-	1	1
Independent candidates	-	-	-	4	4

Source:

<http://www.vrk.lt/2016-seimo/rezultatai>;

<https://e-seimas.lrs.lt/portal/legalAct/lt/TAD/7a7645b39ea611e68987e8320e9a5185>.

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 coordinates 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/odihhr).